Tab 1	**CS/SB 506** by **GO, Perry**; (Identical to CS/H 00441) Public Procurement of Services

104564	A	S	AEG, Perry	Delete L.21 - 39:	01/21 01:44 PM
413074	A	S	AEG, Perry	btw L.47 - 48:	01/21 01:46 PM

Tab 2	**SB 540** by **Rader**; (Identical to H 00329) Insurance Guaranty Associations

Tab 3	**CS/SB 712** by **CA, Mayfield**; (Compare to H 00153) Water Quality Improvements

216160	A	S	AEG, Mayfield	Delete L.506 - 2542:	01/21 01:45 PM

The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

APPROPRIATIONS SUBCOMMITTEE ON AGRICULTURE, ENVIRONMENT AND GENERAL GOVERNMENT
Senator Mayfield, Chair
Senator Powell, Vice Chair

MEETING DATE: Wednesday, January 22, 2020
TIME: 1:30—3:30 p.m.
PLACE: *Toni Jennings Committee Room,* 110 Senate Building

MEMBERS: Senator Mayfield, Chair; Senator Powell, Vice Chair; Senators Albritton, Bean, Berman, Broxson, Hooper, Hutson, Rodriguez, and Stewart

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	**CS/SB 506** Governmental Oversight and Accountability / Perry (Identical CS/H 441)	Public Procurement of Services; Revising the maximum dollar amount for continuing contracts for construction projects; revising the term “continuing contract” to increase certain maximum dollar amounts for professional architectural, engineering, landscape architectural, and surveying and mapping services, etc. GO 01/13/2020 Fav/CS AEG 01/22/2020 AP	
2	**SB 540** Rader (Identical H 329)	Insurance Guaranty Associations; Authorizing certain guaranty association employees to adjust losses for the Florida Insurance Guaranty Association if certain conditions are met; redefining the term “net direct written premiums” as “direct written premiums” and revising the definition of that term; deleting a calculation of initial estimated assessments levied by the Office of Insurance Regulation on insurers in the Florida Insurance Guaranty Association; deleting a calculation of initial estimated assessments levied by the office on insurers in the Florida Workers’ Compensation Insurance Guaranty Association, etc. BI 11/12/2019 Favorable AEG 01/22/2020 AP	

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	**CS/SB 712** Community Affairs / Mayfield (Compare H 153, H 405, H 1343, H 1363, S 640, S 686, S 1382)	Water Quality Improvements; Citing this act as the "Clean Waterways Act"; requiring the Department Health to provide a specified report to the Governor and the Legislature by a specified date; transferring the Onsite Sewage Program within the Department of Health to the Department of Environmental Protection by a type two transfer by a specified date; creating an onsite sewage treatment and disposal systems technical advisory committee within the department; requiring the department to adopt rules relating to the underground pipes of wastewater collection systems; requiring basin management action plans for nutrient total maximum daily loads to include wastewater treatment and onsite sewage treatment and disposal system remediation plans that meet certain requirements, etc. CA 12/09/2019 Fav/CS AEG 01/22/2020 AP	

Other Related Meeting Documents

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on Agriculture, Environment, and General Government

BILL:	CS/SB 506
INTRODUCER:	Governmental Oversight and Accountability Committee and Senator Perry
SUBJECT:	Public Procurement of Services
DATE:	January 21, 2020 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Ponder	McVaney	GO	**Fav/CS**
2.	Davis/Betta	Betta	AEG	**Pre-meeting**
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 506 amends the definition of "continuing contract" under the Consultants' Competitive Negotiation Act (CCNA) to increase the maximum dollar amount for each individual project and each individual study under the contract for construction projects. The maximum dollar amount for each individual project is increased from $2 million to $5 million, and the maximum dollar amount for each individual study is increased from $200,000 to $500,000.

The bill makes conforming revisions to s. 255.103(4), F.S. (authorizing local governmental entities to use the CCNA selection process), increasing the maximum dollar amount for continuing contracts of local governments from $2 million to $5 million.

With the enactment of a higher monetary threshold for these continuing contracts, the state and local governments may have fewer procurements of these services, resulting in lower overall costs.

The bill takes effect July 1, 2020.

II. Present Situation:

State Agency Construction and Department of Management Services (DMS)

Section 255.29, F.S., authorizes the DMS to adopt rules pursuant to Chapter 120, F.S., for bidding on building construction contracts. Specifically, the DMS is required to establish procedures:

- Determining the qualifications and responsibility of potential bidders prior to advertisement for and receipt of bids for building construction contracts, including procedures for the rejection of bidders who are reasonably determined from prior experience to be unqualified or irresponsible to perform the work required by a proposed contract.
- Awarding each state agency construction project to the lowest qualified bidder as well as procedures for waiver of the rules in an emergency.
- Negotiating and modifying construction contracts.
- Entering into performance-based contracts for the development of public facilities when determined to be in the best interest of the state.[1]

Competitive Procurement Generally

Chapter 255, F.S., provides the procurement process for public construction works.[2]
Section 255.103, F.S., authorizes a "governmental entity"[3] to select a construction management entity or program management entity pursuant to s. 287.055, F.S., and at the option of the governmental entity, to require a guaranteed maximum price or a guaranteed completion date.[4] If a project includes a grouping of substantially similar construction, rehabilitation, or renovation activities, the public subdivision may require a separate guaranteed maximum price and a separate guaranteed completion date for each grouping of substantially similar construction, rehabilitation, or renovation activities.[5]

Section 255.103(4), F.S., authorizes a governmental entity to enter into a continuing contract for construction projects, in accordance with s. 287.055, F.S., in which the estimated contract does not exceed $2 million. The term "continuing contract" is defined in s. 255.103(4), F.S., to mean "a contract with a construction management or program management entity for work during a defined period on construction projects described by type which may or may not be identified at the time of entering into the contract."

Part I of ch. 287, F.S., provides "a system of uniform procedures to be utilized by state agencies in managing and procuring commodities and contractual services" to protect the public by promoting "fair and open competition," thereby reducing the appearance and opportunity for favoritism and misconduct.[6] The term "agency" is defined to mean "any of the various state officers, departments, board commissions, divisions, bureaus, and councils and any other unit of

[1] Section 255.29, F.S.
[2] Section 255.065(2), F.S.
[3] Section 255.103(1), F.S. defines the term "governmental entity" to mean "a county, municipality, school district, special district, special district as defined in chapter 189, or political subdivision of the state."
[4] Section 255.103(2), F.S.
[5] *Id.*
[6] Section 287.001, F.S

organization, however designated, of the executive boards of state government.[7] University and college boards of trustees, and the state universities and colleges are excluded from this definition.[8] Agencies, pursuant to s. 287.057, F.S., may procure commodities and contractual services via competitive solicitation processes that include: (i) the invitation to bid; (ii) the request for proposals; and (iii) the invitation to negotiate.

The Consultants' Competitive Negotiation Act

The CCNA, s. 287.055, F.S., deviates from the remainder of part I chapter 287 in two ways. First, unlike the competitive solicitation process outlined in s. 287.057, F.S., the CCNA creates a qualifications based process - for the procurement of professional architectural, engineering, landscape architectural, or registered surveyor and mapper services.[9] Additionally, the CCNA applies to local governments as well as state agencies and defines providing its own definition of agency.[10] "Agency" is defined by the CCNA to mean the "state, a state agency, a municipality, a political subdivision, a school district or a school board."[11]

The CCNA permits the use of continuing contracts for professional services defining the term "continuing contract" as:

> A contract for professional services entered into in accordance with all procedures of this act between and agency and a firm whereby the firm provides professional services to the agency for projects in which the estimated construction cost of each individual project under the contract does not exceed $2 million, for study activity if the fee for professional services for each individual study under the contract does not exceed $200,000, or for work of a specified nature as outlined in the contract required by the agency, with the contract being for a fixed term or with no time limitation except that the contract must provide a termination clause. Firms providing professional services under continuing contacts shall not be required to bid against one another."[12]

The qualifications based selection process of the CCNA contemplates a three-step process: public announcement of the project, qualifications-based selection of the professional firm, and arms-length competitive negotiations with the most qualified firm.[13]

The public announcement is to be conducted by agencies in a consistent and uniform manner and is to occur on each occasion when professional services are required to be purchased for:

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[7] Section 287.012(1), F.S.
[8] *Id.*
[9] *See* Section 287.055, F.S.
[10] *See.* Section 287.055(1)(b), F.S.
[11] Section 287.055(2)(b), F.S. *See* Section 1.01(8), F.S., defining "political subdivision" to include "counties, cities, towns, villages, special tax school districts, special road and bridge districts, bridge districts, and all other districts in this state."
[12] Section 287.055(2)(g), F.S.
[13] *See* Section 287.055, F.S.

- A project when the basic construction cost of which is estimated by the agency to exceed $325,000;[14] or
- A planning or study activity for professional services that exceeds $35,000.[15]

The public notice must provide a general description of the project and describe how the interested consultants are to apply for consideration.

A consultant who wishes to provide professional services to an agency must first be certified by the agency as qualified to provide the needed services pursuant to law and the agency's regulations.[16] In determining a firm or individual to be qualified, the agency must consider the capabilities, adequacy of personnel, past record, experience as well as whether the firm or individual is a certified minority business enterprise.[17]

During the competitive selection phase, the agency must evaluate current statements of qualifications and performance data of the bidders.[18] The agency must select no fewer than three firms deemed to be the most highly qualified to perform the required services.[19] The statute directs agencies to consider the following when determining whether a firm is qualified:

- The ability of professional personnel;
- Whether a firm is a certified minority business enterprise;
- Past performance;
- Willingness to meet time and budget requirements;
- Location;
- Recent, current, and projected workloads of the firms; and
- The volume of work previously awarded to each firm by the agency, with the object of effecting an equitable distribution of contracts among qualified firms, provided such distribution does not violate the principle of selection of the most highly qualified firms.[20]

The agency is prohibited from requesting, accepting and considering proposals for the compensation to be paid during the competitive selection process.[21] Section 287.055(d), F.S., defines "compensation" to mean "the amount paid by the agency for professional services regardless of whether stated as compensation or stated as hourly rates, overhead rates, or other figures or formulas from which compensation can be calculated."

Next, the agency negotiates compensation to be paid under the contract with the most qualified of the three selected firms.[22] Should the agency be unable to negotiate a satisfactory contract with the firm considered to be the most qualified at a price the agency determines to be fair, competitive, and reasonable, negotiations may be made with the second most qualified firm.[23]

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[14] The amount provided in Category Five from the purchasing categories in s. 287.017, F.S.
[15] The amount provide in Category Two from the purchasing categories in s. 287.017, F.S.
[16] Section 287.055(3)(c) F.S.
[17] Section 287.055(3)(d), F.S.
[18] Section 287.055(4)(a), F.S.
[19] Section 287.055(4)(b), F.S.
[20] *Id.*
[21] *Id.*
[22] Section 287.055(5)(a), F.S.
[23] Section 287.055(5)(b), F.S.

The agency may negotiate with the third most qualified firm if the negotiation with the second fails to produce a satisfactory contract.[24] If a satisfactory contract cannot be negotiated with any of the three firms selected, the agency must begin the qualifications-based selection process again.[25]

III. Effect of Proposed Changes:

The bill revises the maximum dollar amount for continuing contracts for construction projections.

Section 1 amends s. 255.103, F.S., to increase the maximum dollar amount for a continuing contract for construction projects from $2 million to $5 million.

Section 2 revises s. 287.055, F.S., to increase the maximum dollar amount for a continuing contract for professional services from $2 million to $5 million. Additionally, the bill increases the maximum amount for professional services for each individual study under the contract from $200,000 to $500,000.

Section 3 provides that the bill takes effect July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. This bill does not require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

This bill does not impact state or local taxes or fees.

E. Other Constitutional Issues:

None identified.

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[24] *Id.*
[25] Section 287.055(5)(c), F.S.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may have an indeterminate positive fiscal impact on the private sector. The increased maximum dollar amount for continuing contracts for construction projects would theoretically allow for more projects to be covered under a continuing contract and reduce the frequency in which a firm must undergo the lengthy CCNA qualification process.

C. Government Sector Impact:

The competitive selection and negotiation process is time consuming and costly for the government sector. The bill, by increasing the maximum dollar amount for continuing contracts, captures more related services and may reduce costs with a more efficient delivery of services to market. Thus, the bill may have an indeterminate positive fiscal impact on the government sector.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Because ss. 287.055 and 255.103, F.S., are substantially similar, and Part 1 of ch. 287, F.S., generally applies only state agencies, it is suggested consideration be given to moving s. 287.055, F.S., to ch. 255, F.S.

Section 255.32, F.S., authorizes the DMS to select and contract with a construction management entity pursuant to the process provided in s. 287.055, F.S. and to enter into continuing contracts[26] for projects in which construction costs do not exceed $2 million. It is suggested that the monetary limitation for a continuing contract in s. 255.32(3), F.S., be revised to conform to the maximum dollar amount provided for in the bill for continuing contacts.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 255.103 and 287.055.

[26] Section 255.32, F.S., defines "continuing contract" as "a contract with a construction management entity for work during a defined time period on construction projects described by type, which may or may not be identified at the time of entering into the contract."

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Governmental Oversight and Accountability on January 13, 2020:
The committee substitute eliminates a provision allowing the statutory cap for continuing contracts procured under the CCNA to be adjusted annually and removes the accompanying language requiring DMS to engage in annual rulemaking to adjust the statutory maximum dollar amount based on the Engineering News-Record's Construction Cost Index.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

104564

LEGISLATIVE ACTION

Senate	.	House
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Appropriations Subcommittee on Agriculture, Environment, and General Government (Perry) recommended the following:

Senate Amendment

Delete lines 21 - 39
and insert:
individual project under the contract does not exceed $4 ~~$2~~ million. For purposes of this subsection, the term "continuing contract" means a contract with a construction management or program management entity for work during a defined period on construction projects described by type which may or may not be identified at the time of entering into the contract.

104564

11 Section 2. Paragraph (g) of subsection (2) of section
12 287.055, Florida Statutes, is amended to read:
13 287.055 Acquisition of professional architectural,
14 engineering, landscape architectural, or surveying and mapping
15 services; definitions; procedures; contingent fees prohibited;
16 penalties.—
17 (2) DEFINITIONS.—For purposes of this section:
18 (g) A "continuing contract" is a contract for professional
19 services entered into in accordance with all the procedures of
20 this act between an agency and a firm whereby the firm provides
21 professional services to the agency for projects in which the
22 estimated construction cost of each individual project under the
23 contract does not exceed $3.5 ~~$2~~ million, for study activity if

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LEGISLATIVE ACTION

Senate	.	House
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Appropriations Subcommittee on Agriculture, Environment, and General Government (Perry) recommended the following:

Senate Amendment (with directory and title amendments)

Between lines 47 and 48
insert:
(7) AUTHORITY OF DEPARTMENT OF MANAGEMENT SERVICES.—
(a) Notwithstanding any other provision of this section, the Department of Management Services shall be the agency of state government which is solely and exclusively authorized and empowered to administer and perform the functions described in subsections (3), (4), and (5) respecting all projects for which

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11 the funds necessary to complete same are appropriated to the
12 Department of Management Services, irrespective of whether such
13 projects are intended for the use and benefit of the Department
14 of Management Services or any other agency of government.
15 However, nothing herein shall be construed to be in derogation
16 of any authority conferred on the Department of Management
17 Services by other express provisions of law. Additionally, any
18 agency of government may, with the approval of the Department of
19 Management Services, delegate to the Department of Management
20 Services authority to administer and perform the functions
21 described in subsections (3), (4), and (5). Under the terms of
22 the delegation, the agency may reserve its right to accept or
23 reject a proposed contract.
24 (b) The Department of Management Services is designated as
25 the entity to administer and perform the procurement functions
26 for guaranteed energy, water, and wastewater performance savings
27 contracts in accordance with s. 489.145.
28 Section 3. Subsection (4) of section 489.145, Florida
29 Statutes, is amended to read:
30 489.145 Guaranteed energy, water, and wastewater
31 performance savings contracting.—
32 (4) PROCEDURES.—
33 (a) The Department of Management Services is authorized to
34 procure a list of qualified energy savings contractors for use
35 by agencies as prequalified contractors for guaranteed energy,
36 water, and wastewater performance savings contracts. The
37 department shall prequalify guaranteed energy, water, and
38 wastewater performance savings contractors for inclusion on the
39 list, and may also include such contractors on the National

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40 Association of Energy Service Companies list of accredited
41 energy service companies or a similar accreditation agency's
42 list. The department shall post on its website the list of
43 prequalified energy savings contractors and a model agreement
44 for use by agencies as set forth in subsection (6).
45 Notwithstanding chapter 287 and the authority of the department,
46 for the purpose of enhancing energy savings and efficiencies in
47 this state, the department shall follow good purchasing
48 practices of state procurement to the extent practicable under
49 the circumstances. Section 120.57(3) applies to the department's
50 contracting process, except the filing of a bond is not required
51 in order to protect the list of prequalified energy savings
52 contractors; and a formal written protest of any decision,
53 intended decision, or other action subject to protest must be
54 filed within 72 hours after receipt of notice of the decision,
55 intended decision, or other actions. The department shall
56 maintain the list and re-procure every 3 years.
57 (b) An agency may enter into a guaranteed energy, water,
58 and wastewater performance savings contract with a guaranteed
59 energy, water, and wastewater performance savings contractor to
60 reduce energy or water consumption, wastewater production, or
61 energy-related operating costs of an agency facility through one
62 or more energy, water, or wastewater efficiency or conservation
63 measures.
64 (c) ~~(b)~~ Before design and installation of energy, water, or
65 wastewater efficiency and conservation measures, the agency must
66 obtain from a guaranteed energy, water, and wastewater
67 performance savings contractor a report that summarizes the
68 costs associated with the energy, water, or wastewater

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69 efficiency and conservation measures or energy-related
70 operational cost-saving measures and provides an estimate of the
71 amount of the cost savings. The agency and the guaranteed
72 energy, water, and wastewater performance savings contractor may
73 enter into a separate agreement to pay for costs associated with
74 the preparation and delivery of the report; however, payment to
75 the contractor shall be contingent upon the report's projection
76 of energy, water, and wastewater cost savings being equal to or
77 greater than the total projected costs of the design and
78 installation of the report's energy conservation measures.
79 (d) ~~(c)~~ An agency may enter into a guaranteed energy, water,
80 and wastewater performance savings contract with a guaranteed
81 energy, water, and wastewater performance savings contractor if
82 the agency finds that the amount the agency would spend on the
83 energy, water, and wastewater efficiency and conservation
84 measures is unlikely to exceed the amount of the cost savings
85 for up to 20 years after the date of installation, based on the
86 life cycle cost calculations provided in s. 255.255, if the
87 recommendations in the report were followed and if the qualified
88 provider or providers give a written guarantee that the cost
89 savings will meet or exceed the costs of the system. However,
90 actual computed cost savings must meet or exceed the estimated
91 cost savings provided in each agency's program approval.
92 Baseline adjustments used in calculations must be specified in
93 the contract. The contract may provide for repayment to the
94 lender of the installation construction loan through installment
95 payments for a period not to exceed 20 years.
96 (e) ~~(d)~~ After the department has prequalified a list of
97 guaranteed energy, water, and wastewater performance savings

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98 contractors that is posted to the department's website in
99 accordance with paragraph (a), an agency may issue a
100 procurement, in the issuing agency's desired format, for
101 selection of a guaranteed energy, water, and wastewater
102 performance savings contractor for a guaranteed energy, water,
103 and wastewater performance savings contract ~~A guaranteed energy,~~
104 ~~water, and wastewater performance savings contractor must be~~
105 ~~selected in compliance with s. 287.055; except that if fewer~~
106 ~~than three firms are qualified to perform the required services,~~
107 ~~the requirement for agency selection of three firms, as provided~~
108 ~~in s. 287.055(4)(b), and the bid requirements of s. 287.057 do~~
109 ~~not apply~~.
110 (f) ~~(e)~~ Before entering into a guaranteed energy, water, and
111 wastewater performance savings contract, an agency must provide
112 published notice of the meeting in which it proposes to award
113 the contract, the names of the parties to the proposed contract,
114 and the contract's purpose.
115 (g) ~~(f)~~ A guaranteed energy, water, and wastewater
116 performance savings contract may provide for financing,
117 including tax-exempt financing, by a third party. The contract
118 for third-party financing may be separate from the energy,
119 water, and wastewater performance contract. A separate contract
120 for third-party financing under this paragraph must include a
121 provision that the third-party financier must not be granted
122 rights or privileges that exceed the rights and privileges
123 available to the guaranteed energy, water, and wastewater
124 performance savings contractor.
125 (h) ~~(g)~~ Financing for guaranteed energy, water, and
126 wastewater performance savings contracts may be provided under

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127 the authority of s. 287.064.
128 (i) ~~(h)~~ The Office of the Chief Financial Officer shall
129 review proposals from state agencies to ensure that the most
130 effective financing is being used.
131 (j) ~~(i)~~ Annually, the agency that has entered into the
132 contract shall provide the Department of Management Services and
133 the Chief Financial Officer the measurement and verification
134 report required by the contract to validate that savings have
135 occurred.
136 (k) ~~(j)~~ In determining the amount the agency will finance to
137 acquire the energy, water, and wastewater efficiency and
138 conservation measures, the agency may reduce such amount by the
139 application of grant moneys, rebates, or capital funding
140 available to the agency for the purpose of buying down the cost
141 of the guaranteed energy, water, and wastewater performance
142 savings contract. However, in calculating the life cycle cost as
143 required in paragraph (d) ~~(c)~~, the agency may ~~shall~~ not apply
144 any grants, rebates, or capital funding.
145
146 ====== D I R E C T O R Y C L A U S E A M E N D M E N T ======
147 And the directory clause is amended as follows:
148 Delete lines 27 - 28
149 and insert:
150 Section 2. Paragraph (g) of subsection (2) and subsection
151 (7) of section 287.055, Florida Statutes, are amended to read:
152
153 ================ T I T L E A M E N D M E N T ================
154 And the title is amended as follows:
155 Delete line 9

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156 and insert:
157 and mapping services; designating the Department of
158 Management Services as the entity for administering
159 and performing procurement functions relating to
160 guaranteed energy, water, and wastewater performance
161 savings contracts; amending s. 489.145, F.S.;
162 authorizing the department to procure a list of
163 qualified guaranteed energy, water, and wastewater
164 performance savings contractors for use by agencies;
165 specifying requirements of the department in
166 developing and maintaining the list; modifying
167 procedures for any protests relating to the list;
168 modifying the manner of selection of a guaranteed
169 energy, water, and wastewater performance savings
170 contractor; providing an effective date.

By the Committee on Governmental Oversight and Accountability; and Senator Perry

585-02223-20 2020506c1

A bill to be entitled

An act relating to the public procurement of services; amending s. 255.103, F.S.; revising the maximum dollar amount for continuing contracts for construction projects; amending s. 287.055, F.S.; revising the term "continuing contract" to increase certain maximum dollar amounts for professional architectural, engineering, landscape architectural, and surveying and mapping services; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (4) of section 255.103, Florida Statutes, is amended to read:

255.103 Construction management or program management entities.—

(4) A governmental entity's authority under subsections (2) and (3) includes entering into a continuing contract for construction projects, pursuant to the process provided in s. 287.055, in which the estimated construction cost of each individual project under the contract does not exceed $5 ~~$2~~ million. For purposes of this subsection, the term "continuing contract" means a contract with a construction management or program management entity for work during a defined period on construction projects described by type which may or may not be identified at the time of entering into the contract.

Section 2. Paragraph (g) of subsection (2) of section 287.055, Florida Statutes, is amended to read:

287.055 Acquisition of professional architectural,

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

585-02223-20 2020506c1

engineering, landscape architectural, or surveying and mapping services; definitions; procedures; contingent fees prohibited; penalties.—

(2) DEFINITIONS.—For purposes of this section:

(g) A "continuing contract" is a contract for professional services entered into in accordance with all the procedures of this act between an agency and a firm whereby the firm provides professional services to the agency for projects in which the estimated construction cost of each individual project under the contract does not exceed $5 ~~$2~~ million, for study activity if the fee for professional services for each individual study under the contract does not exceed $500,000, ~~$200,000,~~ or for work of a specified nature as outlined in the contract required by the agency, with the contract being for a fixed term or with no time limitation except that the contract must provide a termination clause. Firms providing professional services under continuing contracts shall not be required to bid against one another.

Section 3. This act shall take effect July 1, 2020.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on Agriculture, Environment, and General Government

BILL:	SB 540
INTRODUCER:	Senator Rader
SUBJECT:	Insurance Guaranty Associations
DATE:	January 21, 2020 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Arnold	Knudson	BI	**Favorable**
2.	Sanders	Betta	AEG	**Pre-meeting**
3.			AP	

I. Summary:

SB 540 allows Florida Insurance Guaranty Association (FIGA) employees to adjust losses without a license under certain circumstances. The bill similarly allows the FIGA to contract with guaranty association employees of other states who are not licensed for purposes of adjusting losses under certain circumstances.

The bill clarifies that the assessment due from member insurers will be a uniform percentage of premium collected instead of based on a proportion of the total net direct written premium for the prior calendar year. The bill establishes that assessment installment payments made by the FIGA members may be made quarterly rather than monthly.

This bill conforms the assessment methods of the Florida Workers' Compensation Insurance Guaranty Association (FWCIGA) that were amended significantly in 2016 to workers' compensation industry standards. The bill clarifies the method by which assessments are levied against insurers and collected by the FWCIGA related to policy deductibles and to retrospectively rated policies. The bill provides the authority for the FWCIGA to audit reports from insurers regarding the payments made to the FWCIGA and the amounts collected from policyholders. It provides that assessments paid that are required to be remitted by the insurer prior to the insurer surcharging policyholders constitute advances of funds to the FWCIGA, to allow for proper accounting treatment.

The bill also makes other technical and structural changes to the statutes controlling the FIGA and the FWCIGA.

The bill does not impact state revenues or expenditures.

This bill has an effective date of July 1, 2020.

II. Present Situation:

Guaranty Associations

Under federal law, insurance companies cannot file for bankruptcy.[1] Instead, they are either rehabilitated or liquidated by their state of domicile. Florida law establishes the system for the treatment of impaired or insolvent insurers[2] in Florida and sets up guaranty payments where necessary.[3] Florida law provides for guaranty associations to ensure policyholders of insolvent insurers are protected with respect to insurance premiums paid and settlement of outstanding claims, up to limits provided by law.[4] A guaranty association is a not-for-profit corporation created by law and directed to protect policyholders from financial losses and delays in claims payment and settlements due to the insolvency of an insurer.[5] Insurers are required to participate in the guaranty associations as a condition of transacting insurance business in Florida. Florida operates four guaranty associations including the FIGA[6] and the FWCIGA.[7]

Florida Insurance Guaranty Association

The FIGA provides a "mechanism for the payment of covered claims under certain insurance policies to avoid" delay and financial loss due to the financial insolvency of an insurer.[8] It issues guaranty fund payments and provides related services for all lines of property and casualty insurance with certain exceptions.[9] When a Florida property and casualty insurer becomes insolvent, the FIGA takes over the claims of that insurer and pays the claims of its policyholders, ensuring that policyholders are not left with unpaid claims. The FIGA obtains funds to pay the claims of insolvent insurers located in Florida from the liquidation of the assets of insolvent insurers by the Division of Rehabilitation and Liquidation (the Division) in the Florida Department of Financial Services (DFS) and from the liquidation of assets of insolvent insurers located outside Florida that transact insurance business in Florida.[10]

If an insurer's assets are insufficient to pay all claims, the FIGA can also issue post-insolvency assessments against property and casualty insurers to obtain funds to pay the remaining claims.[11] Currently, the Florida statute setting forth the FIGA's duties and powers states that assessments on members of the FIGA are "initially estimated in the proportion that each insurer's net direct written premiums [in Florida] in the classes protected by the account bears to the total of said net direct written premiums received [in Florida] by all such insurers for the preceding calendar year

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[1] 11 U.S.C. s. 109(b)(2).
[2] An "insolvent insurer" means an insurer that was authorized to transact insurance in this state, either at the time the policy was issued or when the insured event occurred, and against which an order of liquidation with a finding of insolvency has been entered by a court of competent jurisdiction if such order has become final by the exhaustion of appellate review. s. 631.904(4), F.S.
[3] Chapter 631, F.S.
[4] *Id.*
[5] *See e.g.,* ss. 631.51 and 631.902, F.S.
[6] Chapter 631, part II, F.S.
[7] Chapter 631, part V, F.S.
[8] Section 631.51, F.S.
[9] Section 631.52, F.S.
[10] *See* s. 631.061, F.S. for grounds for liquidation. *See* s. 631.025, F.S., for an overview of persons subject to proceedings initiated by the Division.
[11] Section 631.57, F.S.

for the kinds of insurance included in such account."[12] Furthermore, each insurer assessed must be provided with at least 30 days' written notice as to the date the initial assessment payment is due.[13] When the FIGA issues an assessment, it has the option to require that member insurers pay the assessment in a single payment or to allow the member insurers to pay assessment payments in monthly installments, with the first installment being due at the end of the month following the levy of an assessment.[14]

When an insolvent insurer is liquidated in Florida, the FIGA assumes the claims and is "deemed the insurer to the extent of its obligation on…covered claims, and,…shall have all rights, duties, defenses, and obligations of the insolvent insurer as if the insurer had not become insolvent."[15] Additionally, the FIGA has the right to employ the necessary staff to handle claims and perform other duties for the association.[16]

In general, when an insolvent insurer located in another state is liquidated, the claims in that state are referred to its guaranty association for claims handling. However, the FIGA handles claims that exist on policies issued in Florida by insolvent foreign insurers.[17] Due to the nature of the claims process and the involvement of more than one state's guaranty association in these claims, it may be appropriate and efficient for an employee of another state's guaranty association to adjust a Florida claim.

Florida Workers' Compensation Insurance Guaranty Association

The FWCIGA "provides a mechanism for the payment of covered claims under chapter 440, F.S., to avoid" delay and financial loss to claimants due to the insolvency of a workers' compensation insurer.[18] The FWCIGA services workers' compensation claims against insolvent workers' compensation insurers[19] and self-insurance funds.[20] When a workers' compensation insurer or self-insurance fund becomes insolvent, the FWCIGA takes over the claims of that insurer and pays the claims of its policyholders, ensuring that policyholders are not left with unpaid claims. Like the FIGA, the FWCIGA is funded through the liquidation of insolvent

[12] Section 631.57(3)(a), F.S. Stated differently, an insurer's assessment amount would be estimated by determining its part of the whole of the premium written for the prior year for the kinds of insurance included in a certain account and multiplying that proportion by the entire assessment amount to be collected. For example, if FIGA was assessing its auto insurance account, an auto insurer's assessment would be estimated by determining its share of the entire auto insurance premium written during the prior year and multiplying that by the total assessment amount to be collected.
[13] Section 631.57(3)(a), F.S.
[14] Section 631.57(3)(e)3 and (f)2, F.S.
[15] Section 631.57, F.S.
[16] *Id.*
[17] A foreign insurer is one formed under the laws of any state, district, territory, or commonwealth of the United States other than Florida. Section 624.06, F.S.
[18] Section 631.902, F.S.
[19] "'Insurer' means an insurance carrier or self-insurance fund authorized to insure under ch. 440, F.S. For purposes of this act, "insurer" does not include a qualified local government self-insurance fund, as defined in s. 624.4622, F.S., or an individual self-insurer as defined in s. 440.385, F.S." Section 631.904(5), F.S.
[20] "'Self-insurance fund' means a group self-insurance fund authorized under s. 624.4621, F.S., a commercial self-insurance fund writing workers' compensation insurance authorized under s. 624.462, F.S., or an assessable mutual insurer authorized under s. 628.6011, F.S. For purposes of this act, the term "self-insurance fund" does not include a qualified local government self-insurance fund, as defined in s. 624.4622, F.S., an independent educational institution self-insurance fund as defined in s. 624.4623, an electric cooperative self-insurance fund as described in s. 624.4626, F.S., or an individual self-insurer as defined in s. 440.385, F.S." Section 631.904(6), F.S.

insurers, including a portion of the estates of insolvent insurers in other states. If the assets of the liquidated insurer are insufficient to pay claims, the FWCIGA in conjunction with the Office of Insurance Regulation (OIR), may order assessments of workers' compensation insurers and self-insurance funds writing workers' compensation coverage in Florida.[21] The FWCIGA levied assessments from its inception in 1998 through 2005.[22] The FWCIGA did not levy assessments between 2006 through 2019.[23] On June 18, 2019, the FWCIGA Board of Directors certified the need for a 1.0 percent assessment on its member insurers.[24] Subsequently, the OIR issued a 1.0 percent assessment levy on all new and renewal workers' compensation policies with effective dates beginning January 1, 2020, through December 31, 2020.[25] These assessment payments will be due to the FWCIGA quarterly after applying and collecting a 1.0 percent surcharge to all workers' compensation and excess workers' compensation policies.[26]

Method of Assessment

In 2016, the method of assessment for the FWCIGA was amended to be more consistent with the methods used to levy assessments by the other Florida guaranty associations.[27] Since the 2016 amendments, the law has provided for two methods by which the FWCIGA can collect assessments from workers' compensation insurers and self-insurance funds.[28] The FWCIGA may choose to fund an assessment by either of the following methods:[29]

- Single payment, subject to true-up (pay and recover)[30] – under this method, the insurer pays the assessment to the FWCIGA and then recovers its payment from its insureds through policy surcharges. The assessment payment is due and payable no earlier than 30 days following written notice of the assessment order. For accounting purposes, the billed surcharges are a receivable and an asset for the purposes of the National Association of Insurance Commissioners' Statement of Statutory Accounting Principles Number 4.[31] For the OIR reporting, the billed surcharges would be recorded separately from the liability.
- Installment (collect and remit) – under this method, the insurer would bill the insured for the surcharge as policies are written and remit the collected surcharges to the FWCIGA quarterly.[32]

The insurer is required to submit a reconciliation report within 120 days following the end of the 12-month assessment recovery period showing the amount initially paid and the amount of the

[21] Section 631.914, F.S.
[22] Florida Workers' Compensation Insurance Guaranty Association, *Assessments*, https://fwciga.org/assessments (last visited January 16, 2019).
[23] *Id.*
[24] *Id.* Pursuant to s. 631.914(4)(a), F.S., an insurer may be exempted from an assessment if, in the opinion of OIR, the assessment would impair the solvency of the insurer.
[25] *Id.*
[26] *Id.*
[27] Chapter 16-170, L.O.F.
[28] *See* s. 631.914, F.S.
[29] *See id.*
[30] Section 631.914(1)(d), F.S.
[31] *See* National Association of Insurance Commissioners & The Center for Insurance Policy and Research, *Statutory Accounting Principles*, http://www.naic.org/cipr_topics/topic_statutory_accounting_principles.htm (last visited January 16, 2019).
[32] Section 631.914(1)(d), F.S.

surcharge collected.[33] This results in a "true-up" of the actual assessment amount if the initial calculation and payment was too low or too high.[34]

Calculation of Insurer Assessment Amount

The OIR, upon certification of need by the FWCIGA, levies assessments on each insurer "initially estimated in the proportion that the insurer's net direct written premiums" in Florida bear to the total net direct premiums received in Florida by all workers' compensation insurers during the previous calendar year.[35] The assessments levied against insurers and self-insurance funds are computed based upon the net direct written premium amounts set forth in Florida for workers' compensation insurance without consideration for any discount in premium or credit for deductibles.[36]

The assessment is limited to two percent of an insurer's or self-insurance fund's net direct written premium in any given calendar year.[37] If the assessment is insufficient to meet the FWCIGA's funding need for payments owing to claimants in a calendar year, then, upon certification by the FWCIGA, the OIR shall levy assessments of up to an additional 1.5 percent of the insurer's net direct written premiums in Florida.[38] Insurers and self-insurance funds must report to the FWCIGA the amount of initial payment or installment payments made to the FWCIGA and the amount collected from policyholders.[39] The reporting must occur within 120 days after the 12-month assessment period and annually thereafter for three years.[40]

III. Effect of Proposed Changes:

Section 1 creates s. 626.8621, F.S., to allow FIGA employees to adjust losses so long as they hold, or have held in the past 10 years, licensure in Florida that allows for the adjustments of losses. The bill allows guaranty association employees of other states whose insurance regulators are members of the National Association of Insurance Regulators to adjust losses for the FIGA so long as the FIGA contracts with employees who maintain the appropriate experience and training for adjusting such claims.

Section 2 amends s. 631.54, F.S., by removing the word "net" from "net direct written premium" to use the more common industry terminology of "direct written premium." It also strikes the words "dividends paid or credited to policyholders", removing the offset for policyholder dividends that had previously been applied against the base from which the FIGA derives assessments.

Section 3 amends s. 631.57(3)(a), F.S., by removing language that requires a determination of each insurer's proportion of net direct written premiums to the total of net direct written premiums received during the preceding calendar year for the kinds of insurance included within

[33] Section 631.914(1)(d)3., F.S.
[34] *Id.*
[35] Section 631.914(1)(a), F.S.
[36] *Id.*
[37] *Id.*
[38] Section 631.914(1)(c), F.S.
[39] Section 631.914(1)(a)d.3., F.S.
[40] *Id.*

an account. It also moves the portion of s. 631.57(3)(a), F.S., which requires that the FIGA provide each insurer with at least 30 days' written notice as to the date the initial assessment payment is due to s. 631.57(3)(f)1.b, F.S. Notice of an initial payment due date would not apply when the assessment is being paid in a single payment. It allows for quarterly installment payments of assessments, instead of monthly installment payments. Finally, the bill conforms net direct written premium language contained in s. 631.54, F.S., to statutory changes made by Section 2.

Section 4 amends s. 625.012, F.S., to conform assessment installment payment language contained in s. 625.012(15)(b), F.S., to statutory changes made by Section 3.

Section 5 amends s. 631.59, F.S., to conform the duties of the OIR contained in s. 631.59(3), F.S., to statutory changes made by Section 2.

Section 6 amends s. 631.912, F.S., to conform the duties of the FWCIGA's Board of Directors contained in s. 631.912(1), F.S. to statutory changes provided by Section 7. Also, conforms net direct written premium language contained in s. 631.54, F.S., to statutory changes made by Section 2.

Section 7 amends s. 631.914(1)(a), F.S., by removing language that requires a determination of each insurer's proportion of net direct written premiums to the total of net direct written premiums received during the preceding calendar year for all workers' compensation insurers. This section also removes the word "net" from "net direct written premium" to use the more common industry terminology of "direct written premium" as provided by Section 2. It prohibits reducing an insurer's direct written premium by any discount, credit for deductible in a policy, or premium adjustment to a retrospectively rated policy, for the purposes of determining the insurer's assessment or policy surcharge, and it authorizes the FWCIGA to conduct audits of premium reports.

This section requires the OIR to levy the uniform surcharge percentage on all policies of the same kind or line as it considered in determining the assessment liability of the insurer.

Finally, it provides that assessments paid by worker's compensation insurers to the FWCIGA constitute advances of funds under certain circumstances to allow for proper accounting treatment.

Section 8 provides an effective date of July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The fiscal impact of this bill to the private sector is indeterminate. While changing the method by which the FWCIGA calculates assessments necessarily changes the base used to determine the assessment, the ultimate changes may be revenue-neutral, as the amount the FWCIGA needs to assess would remain unchanged.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 631.54, 631.57, 625.012, 631.59, 631.912, and 631.914.

This bill creates section 626.8621 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By Senator Rader

29-00846-20 2020540__

A bill to be entitled

An act relating to insurance guaranty associations; creating s. 626.8621, F.S.; authorizing certain guaranty association employees to adjust losses for the Florida Insurance Guaranty Association if certain conditions are met; amending s. 631.54, F.S.; redefining the term "net direct written premiums" as "direct written premiums" and revising the definition of that term; amending s. 631.57, F.S.; deleting a calculation of initial estimated assessments levied by the Office of Insurance Regulation on insurers in the Florida Insurance Guaranty Association; providing that a notice requirement for initial assessments applies to emergency assessments; revising the frequency of payable installments for assessments if an installment method is elected by the association; revising the basis of calculating initial payments of assessments for certain insurers; conforming a provision to changes made by the act; amending ss. 625.012, 631.59, and 631.912, F.S.; conforming provisions to changes made by the act; amending s. 631.914, F.S.; deleting a calculation of initial estimated assessments levied by the office on insurers in the Florida Workers' Compensation Insurance Guaranty Association; revising the method for calculating assessments; authorizing the association to audit certain reports by insurers and self-insurance funds; specifying a requirement for the office in levying policy surcharges; revising a procedure for collecting policy surcharges; revising

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an installment method of payments to apply to policy surcharges rather than to assessments; revising requirements if the association elects to require insurers to remit assessments before surcharging policies; revising a requirement for annual reconciliation reports by insurers; revising construction; revising the applicability of premium taxes, fees, and commissions; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 626.8621, Florida Statutes, is created to read:

626.8621 Adjustments by guaranty association employees.—

(1) An employee of the Florida Insurance Guaranty Association, created under part II of chapter 631, may adjust losses for the association if such employee holds, or has held within the past 10 years, licensure in this state which allows for the adjustment of such losses.

(2) An employee of a guaranty association established by another state whose insurance regulators are members of the National Association of Insurance Commissioners may adjust losses for the Florida Insurance Guaranty Association. The authorization for such employees to adjust losses must be included in a contract with the Florida Insurance Guaranty Association and the employee's guaranty association or association's authorized representative. The Florida Insurance Guaranty Association shall contract only for employees of other

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state guaranty associations who maintain the appropriate experience and training for adjusting such claims.

Section 2. Subsection (9) of section 631.54, Florida Statutes, is amended to read:

631.54 Definitions.—As used in this part:

(9) "~~Net~~ Direct written premiums" means direct gross premiums written in this state on insurance policies to which this part applies, less return premiums thereon ~~and dividends paid or credited to policyholders~~ on such direct business. The term ~~"Net direct written premiums"~~ does not include premiums on contracts between insurers or reinsurers.

Section 3. Paragraphs (a), (e), and (f) of subsection (3) of section 631.57, Florida Statutes, are amended to read:

631.57 Powers and duties of the association.—

(3)(a) To the extent necessary to secure funds for the respective accounts for the payment of covered claims, to pay the reasonable costs to administer such accounts, and to secure funds for the account specified in s. 631.55(2)(b) or to retire indebtedness, including, without limitation, the principal, redemption premium, if any, and interest on, and related costs of issuance of, bonds issued under s. 631.695 and the funding of reserves and other payments required under the bond resolution or trust indenture pursuant to which such bonds have been issued, the office, upon certification of the board of directors, shall levy assessments~~,~~ in accordance with subparagraph (f)1. or subparagraph (f)2.~~, initially estimated in the proportion that each insurer's net direct written premiums in this state in the classes protected by the account bears to the total of said net direct written premiums received in this state by all such insurers for the preceding calendar year for the kinds of insurance included within such account.~~ Assessments shall be remitted to and administered by the board of directors in the manner specified by the approved plan and paragraph (f). ~~Each insurer so assessed shall have at least 30 days' written notice as to the date the initial assessment payment is due and payable.~~ Every assessment shall be a uniform percentage. The assessments levied against any insurer may not exceed in any one calendar year more than 2 percent of that insurer's ~~net~~ direct written premiums in this state for the kinds of insurance included within such account.

(e)1. In addition to assessments authorized in paragraph (a), and to the extent necessary to secure the funds for the account specified in s. 631.55(2)(b) for the direct payment of covered claims of insurers rendered insolvent by the effects of a hurricane and to pay the reasonable costs to administer such claims, or to retire indebtedness, including, without limitation, the principal, redemption premium, if any, and interest on, and related costs of issuance of, bonds issued under s. 631.695 and the funding of any reserves and other payments required under the bond resolution or trust indenture pursuant to which such bonds have been issued, the office, upon certification of the board of directors, shall levy emergency assessments upon insurers holding a certificate of authority. The emergency assessments levied against any insurer may not exceed in any one calendar year more than 2 percent of that insurer's ~~net~~ written premiums in this state for the kinds of insurance within the account specified in s. 631.55(2)(b).

2. Emergency assessments authorized under this paragraph

117 shall be levied by the office upon insurers in accordance with
118 paragraph (f), upon certification as to the need for such
119 assessments by the board of directors. If the board participates
120 in the issuance of bonds in accordance with s. 631.695,
121 emergency assessments shall be levied in each year that bonds
122 issued under s. 631.695 and secured by such emergency
123 assessments are outstanding in amounts up to such 2-percent
124 limit as required in order to provide for the full and timely
125 payment of the principal of, redemption premium, if any, and
126 interest on, and related costs of issuance of, such bonds. The
127 emergency assessments are assigned and pledged to the
128 municipality, county, or legal entity issuing bonds under s.
129 631.695 for the benefit of the holders of such bonds in order to
130 provide for the payment of the principal of, redemption premium,
131 if any, and interest on such bonds, the cost of issuance of such
132 bonds, and the funding of any reserves and other payments
133 required under the bond resolution or trust indenture pursuant
134 to which such bonds have been issued, without further action by
135 the association, the office, or any other party. If bonds are
136 issued under s. 631.695 and the association determines to secure
137 such bonds by a pledge of revenues received from the emergency
138 assessments, such bonds, upon such pledge of revenues, shall be
139 secured by and payable from the proceeds of such emergency
140 assessments, and the proceeds of emergency assessments levied
141 under this paragraph shall be remitted directly to and
142 administered by the trustee or custodian appointed for such
143 bonds.
144 3. Emergency assessments used to defease bonds issued under
145 this part may be payable in a single payment or, at the option

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146 of the association, may be payable in quarterly ~~12 monthly~~
147 installments, with the first installment being due and payable
148 at the end of the month after an emergency assessment is levied
149 and subsequent installments being due by the end of each
150 succeeding month.
151 4. If emergency assessments are imposed, the report
152 required by s. 631.695(7) must include an analysis of the
153 revenues generated from the emergency assessments imposed under
154 this paragraph.
155 5. If emergency assessments are imposed, the references in
156 sub-subparagraph (1)(a)3.b. and s. 631.695(2) and (7) to
157 assessments levied under paragraph (a) must include emergency
158 assessments imposed under this paragraph.
159 6. If the board of directors participates in the issuance
160 of bonds in accordance with s. 631.695, an annual assessment
161 under this paragraph shall continue while the bonds issued with
162 respect to which the assessment was imposed are outstanding,
163 including any bonds the proceeds of which were used to refund
164 bonds issued pursuant to s. 631.695, unless adequate provision
165 has been made for the payment of the bonds in the documents
166 authorizing the issuance of such bonds.
167 (f)1. The association, office, and insurers remitting
168 assessments pursuant to paragraph (a) or paragraph (e) must
169 comply with the following:
170 a. In the order levying an assessment, the office shall
171 specify the actual percentage amount to be collected uniformly
172 from all the policyholders of insurers subject to the assessment
173 and the date on which the assessment year begins, which may not
174 begin before 90 days after the association board certifies such

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175 an assessment.
176 b. Insurers shall make an initial payment to the
177 association before the beginning of the assessment year on or
178 before the date specified in the order of the office. Each
179 insurer shall have at least 30 days' written notice as to the
180 date on which the initial assessment payment is due and payable.
181 c. Insurers that have written insurance in the calendar
182 year before the year in which the assessment is certified by the
183 board shall make an initial payment based on the ~~net~~ direct
184 written premium in this state for the classes protected by the
185 account ~~amount~~ from the previous calendar year as set forth in
186 the insurer's annual statement, multiplied by the uniform
187 percentage of premium specified in the order issued by the
188 office. Insurers that have not written insurance in the previous
189 calendar year in any of the lines under the account which are
190 being assessed, but which are writing insurance as of, or after,
191 the date the board certifies the assessment to the office, shall
192 pay an amount based on a good faith estimate of the amount of
193 ~~net~~ direct written premium anticipated to be written in the
194 subject lines of business for the assessment year, multiplied by
195 the uniform percentage of premium specified in the order issued
196 by the office.
197 d. Insurers shall file a reconciliation report with the
198 association which indicates the amount of the initial payment to
199 the association before the assessment year, whether such amount
200 was based on ~~net~~ direct written premium contained in a previous
201 calendar year annual statement or a good faith projection, the
202 amount actually collected during the assessment year, and such
203 other information contained on a form adopted by the association

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204 and provided to the insurers in advance. If the insurer
205 collected from policyholders more than the amount initially
206 paid, the insurer shall pay the excess amount to the
207 association. If the insurer collected from policyholders an
208 amount which is less than the amount initially paid to the
209 association, the association shall credit the insurer that
210 amount against future assessments. Such payment reconciliation
211 report, and any payment of excess amounts collected from
212 policyholders, shall be completed and remitted to the
213 association within 90 days after the end of the assessment year.
214 The association shall send a final reconciliation report on all
215 insurers to the office within 120 days after each assessment
216 year.
217 e. Insurers remitting reconciliation reports under this
218 paragraph to the association are subject to s. 626.9541(1)(e).
219 2. For assessments required under paragraph (a) or
220 paragraph (e), the association may use a quarterly ~~monthly~~
221 installment method instead of the method described in sub-
222 subparagraphs 1.b. and c. or in combination thereof based on the
223 association's projected cash flow. If the association projects
224 that it has cash on hand for the payment of anticipated claims
225 in the applicable account for at least 6 months, the board may
226 make an estimate of the assessment needed and may recommend to
227 the office the assessment percentage that may be collected as a
228 quarterly ~~monthly~~ assessment. The office may, in the order
229 levying the assessment on insurers, specify that the assessment
230 is due and payable quarterly ~~monthly~~ as the funds are collected
231 from insureds throughout the assessment year, in which case the
232 assessment shall be a uniform percentage of premium collected

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233 during the assessment year and shall be collected from all
234 policyholders with policies in the classes protected by the
235 account. All insurers shall collect the assessment without
236 regard to whether the insurers reported premium in the year
237 preceding the assessment. Insurers are not required to advance
238 funds if the association and the office elect to use the
239 quarterly ~~monthly~~ installment option. All funds collected shall
240 be retained by the association for the payment of current or
241 future claims. This subparagraph does not alter the obligation
242 of an insurer to remit assessments levied pursuant to this
243 subsection to the association.
244 Section 4. Paragraph (b) of subsection (15) of section
245 625.012, Florida Statutes, is amended to read:
246 625.012 "Assets" defined.—In any determination of the
247 financial condition of an insurer, there shall be allowed as
248 "assets" only such assets as are owned by the insurer and which
249 consist of:
250 (15)
251 (b) Assessments levied as ~~monthly~~ installments pursuant to
252 s. 631.57(3)(e)3. or s. 631.914 which are paid after policy
253 surcharges are collected so that the recognition of assets is
254 based on actual premium written offset by the obligation to the
255 Florida Insurance Guaranty Association or the Florida Workers'
256 Compensation Insurance Guaranty Association, Incorporated.
257 Section 5. Subsection (3) of section 631.59, Florida
258 Statutes, is amended to read:
259 631.59 Duties and powers of department and office.—
260 (3) The office shall, upon request of the board of
261 directors, provide the association with a statement of the ~~net~~

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262 direct written premiums of each member insurer.
263 Section 6. Subsection (1) of section 631.912, Florida
264 Statutes, is amended to read:
265 631.912 Board of directors.—
266 (1) The board of directors of the corporation shall consist
267 of 11 persons, 1 of whom is the insurance consumer advocate
268 appointed under s. 627.0613 or designee and 1 of whom is
269 designated by the Chief Financial Officer. The department shall
270 appoint to the board 6 persons selected by private carriers from
271 among the 20 workers' compensation insurers with the largest
272 amount of ~~net~~ direct written premium as determined by the
273 department, and 2 persons selected by the self-insurance funds.
274 The Governor shall appoint one person who has commercial
275 insurance experience. At least two of the private carriers shall
276 be foreign carriers authorized to do business in this state. The
277 board shall elect a chairperson from among its members. The
278 Chief Financial Officer may remove any board member for cause.
279 Each board member shall be appointed to serve a 4-year term and
280 may be reappointed. A vacancy on the board shall be filled for
281 the remaining period of the term in the same manner by which the
282 original appointment was made.
283 Section 7. Subsections (1), (2), and (3) of section
284 631.914, Florida Statutes, are amended to read:
285 631.914 Assessments.—
286 (1)(a) To the extent necessary to secure the funds for the
287 payment of covered claims, and also to pay the reasonable costs
288 to administer the same, the Office of Insurance Regulation, upon
289 certification by the board, shall levy assessments on each
290 insurer ~~initially estimated in the proportion that the insurer's~~

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291 ~~net direct written premiums in this state bears to the total of~~
292 ~~said net direct written premiums received in this state by all~~
293 ~~such workers' compensation insurers for the preceding calendar~~
294 ~~year~~. Assessments levied against insurers and self-insurance
295 funds pursuant to this paragraph must be computed and levied on
296 the basis of ~~the full policy premium value on~~ the ~~net~~ direct
297 written premium amount as set forth in the state for workers'
298 compensation insurance ~~without consideration of any applicable~~
299 ~~discount or credit for deductibles~~. An insurer's direct written
300 premium calculated for the purposes of determining the insurer's
301 assessment or policy surcharge may not be reduced by any
302 discount or credit for deductibles in a policy or by any premium
303 adjustment to a retrospectively rated policy. Insurers and self-
304 insurance funds must report premiums in compliance with this
305 paragraph, and the association may audit the reports.
306 Assessments shall be remitted to and administered by the board
307 of directors in the manner specified by the approved plan of
308 operation and paragraph (d). ~~Each assessment shall be a uniform~~
309 ~~percentage applicable to the net direct written premiums of each~~
310 ~~insurer writing workers' compensation insurance.~~ Assessments
311 levied against insurers and self-insurance funds shall not
312 exceed in any calendar year more than 2 percent of that
313 insurer's ~~net~~ direct written premiums in this state for workers'
314 compensation insurance.
315 (c) ~~(b)~~ The office shall levy the uniform surcharge
316 percentage on all policies of the same kind or line as were
317 considered by the office in determining the assessment liability
318 of the insurer. Member insurers shall collect policy surcharges
319 at a uniform percentage rate on new and renewal policies issued

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320 and effective during the period of 12 months beginning on
321 January 1, April 1, July 1, or October 1, whichever is the first
322 day of the following calendar quarter as specified in an order
323 issued by the office ~~directing insurers to pay an assessment to~~
324 ~~the association~~. The policy surcharge may not begin until 90
325 days after the board of directors certifies the assessment.
326 (b) ~~(c)~~ If assessments otherwise authorized in paragraph (a)
327 are insufficient to make all payments on reimbursements then
328 owing to claimants in a calendar year, then upon certification
329 by the board, the office shall levy additional assessments of up
330 to 1.5 percent of the insurer's ~~net~~ direct written premiums in
331 this state.
332 (d) The association may use an installment method to
333 require the insurer to remit the policy surcharge ~~assessment~~ as
334 collected ~~premium is written~~ or may require the insurer to remit
335 the assessment to the association before collecting the policy
336 ~~policyholder~~ surcharge. ~~If the assessment is remitted before the~~
337 ~~surcharge is collected, the assessment remitted must be based on~~
338 ~~an estimate of the assessment due based on the proportion of~~
339 ~~each insurer's net direct written premium in this state for the~~
340 ~~preceding calendar year as described in paragraph (a) and~~
341 ~~adjusted following the end of the 12-month period during which~~
342 ~~the assessment is levied.~~
343 1. If the association elects to use the installment method,
344 the office may, in the order levying the assessment on insurers,
345 specify that the policy surcharge ~~assessment~~ is due and payable
346 quarterly as collected ~~premium is written~~ throughout the
347 assessment year. Insurers shall collect policy surcharges at a
348 uniform percentage rate specified by order as described in

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349 paragraph (c) ~~(b)~~. Insurers are not required to advance funds if
350 the association and the office elect to use the installment
351 option. Assessments levied under this subparagraph are paid
352 after policy surcharges are collected, and the recognition of
353 assets is based on actual policy surcharges collected ~~premium~~
354 ~~written~~ offset by the obligation to the association.
355 2. If the association elects to require insurers to remit
356 the assessment before surcharging the policy ~~policyholder~~, the
357 following shall apply:
358 a. On or before the date specified in the order of the
359 office, insurers shall make an initial payment to the
360 association of the percentage specified in the order multiplied
361 by the insurer's direct written premiums received in this state
362 for the preceding calendar year for the kinds of insurance
363 included within such account before the beginning of the
364 assessment year.
365 b.~~a.~~ The levy order shall provide each insurer so assessed
366 at least 30 days' written notice of the date the initial
367 assessment payment is due and payable by the insurer.
368 c.~~b.~~ Insurers shall collect policy surcharges at a uniform
369 percentage rate specified by the order, as described in
370 paragraph (c) ~~(b)~~.
371 d.~~c.~~ Assessments levied under this subparagraph and ~~are~~
372 paid by an insurer constitute advances of funds from the insurer
373 to the association ~~before policy surcharges are billed~~ and
374 result in a receivable for policy surcharges to be billed in the
375 future. The amount of billed policy surcharges, to the extent it
376 is likely that it will be realized, meets the definition of an
377 admissible asset as specified in the National Association of

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378 Insurance Commissioners' Statement of Statutory Accounting
379 Principles No. 4. The asset shall be established and recorded
380 separately from the liability. If an insurer is unable to fully
381 recoup the amount of the assessment, the amount recorded as an
382 asset shall be reduced to the amount reasonably expected to be
383 recouped.
384 3. Insurers must submit a reconciliation report to the
385 association within 120 days after the end of the 12-month
386 assessment period and annually thereafter for a period of 3
387 years. The report must indicate the amount of the initial
388 payment or installment payments made to the association and the
389 amount of policy surcharges collected ~~written premium pursuant~~
390 ~~to paragraph (a)~~ for the assessment year. If the insurer's
391 reconciled ~~assessment~~ obligation is more than the amount paid to
392 the association, the insurer shall pay the excess policy
393 surcharges collected to the association. If the insurer's
394 reconciled ~~assessment~~ obligation is less than the initial amount
395 paid to the association, the association shall return the
396 overpayment to the insurer.
397 (2) Policy surcharges collected ~~Assessments levied~~ under
398 this section are not premium and are not subject to any premium
399 tax, fees, or commissions. Insurers shall treat the failure of
400 an insured to pay policy ~~assessment-related~~ surcharges as a
401 failure to pay premium. An insurer is not liable for any
402 uncollectible policy ~~assessment-related~~ surcharges levied
403 pursuant to this section.
404 (3) Assessments levied under this section may be levied
405 only upon insurers. This section does not create a cause of
406 action by a policyholder with respect to the levying of an

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407 assessment or a policyholder's duty to pay assessment-related
408 policy surcharges.
409 Section 8. This act shall take effect July 1, 2020.

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The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on Agriculture, Environment, and General Government

BILL:	CS/SB 712
INTRODUCER:	Community Affairs Committee and Senator Mayfield
SUBJECT:	Water Quality Improvements
DATE:	January 21, 2020 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Paglialonga/Rogers	Yeatman	CA	**Fav/CS**
2.	Reagan	Betta	AEG	**Pre-meeting**
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 712 includes recommendations from the Blue-Green Algae Task Force. The major topics in this bill include onsite sewage treatment and disposal systems (OSTDSs, commonly referred to as septic systems), wastewater, stormwater, agriculture, and biosolids. The bill directs the Department of Environmental Protection (DEP) to make rules relating to most of these topics. Note that rules that cost at least $1 million over the first five years of implementation require legislative ratification.[1] Therefore, several of these provisions may not be fully effectuated without additional legislation.

The DEP will incur indeterminate additional costs in developing multiple new regulatory programs, updating basin management action plans (BMAPs), promulgating rules, and developing, submitting, and reviewing new reports. The DEP can absorb these costs within existing resources. The implementation of the real-time water quality monitoring and wastewater grant programs will have a negative fiscal impact on the DEP, but these provisions are subject to appropriations. See Section V.

Regarding OSTDSs, the bill:

- Transfers the regulation of OSTDSs from the Department of Health (DOH) to the DEP.
- Directs the DEP to adopt rules to locate OSTDSs by July 1, 2022:

[1] Section 120.541(3), F.S.

  - These rules will take into consideration conventional and advanced OSTDS designs, impaired water bodies, wastewater and drinking water infrastructure, potable water sources, nonpotable wells, stormwater infrastructure, OSTDS remediation plans, nutrient pollution, and the recommendations of an OSTDS technical advisory committee;
  - Once those rules are adopted, they will supersede the existing statutory requirements for setbacks.
- Deletes the DOH OSTDS technical advisory committee and creates a DEP OSTDS technical advisory committee that will expire on August 15, 2022, after making recommendations to the Governor and the Legislature regarding the regulation of OSTDSs.
- Requires local governments to develop OSTDS remediation plans within BMAPs if the DEP determines that OSTDSs contribute at least 20 percent of the nutrient pollution or if the DEP determines remediation is necessary to achieve the total maximum daily load. Such plans must be adopted as part of the BMAPs no later than July 1, 2025.

Regarding wastewater, the bill:

- Creates a wastewater grant program, subject to appropriation, within the DEP that requires a 50 percent local match of funds. Eligible projects include:
  - Projects to upgrade OSTDSs.
  - Projects to construct, upgrade, or expand facilities to provide advanced waste treatment.
  - Projects to connect OSTDSs to central sewer facilities.
- Requires the DEP to submit an annual report to the Governor and the Legislature on the projects funded by the wastewater grant program.
- Requires the DEP to adopt rules to reasonably limit, reduce, and eliminate leaks, seepages, or inputs into the underground pipes of wastewater collection systems.
- Authorizes the DEP to require public utilities seeking a wastewater discharge permit to file reports and other data regarding utility costs:
  - Such reports may include data related to expenditures on pollution mitigation and prevention, including the prevention of sanitary sewer overflows, collection and transmission system pipe leakages, and inflow and infiltration.
  - The DEP is required to adopt rules related to these requirements.
- Requires local governments to develop wastewater treatment plans within BMAPs if the DEP determines that domestic wastewater facilities contribute at least 20 percent of the nutrient pollution or if the DEP determines remediation is necessary to achieve the total maximum daily load. Such plans must be adopted as part of the BMAPs no later than July 1, 2025.
- Adds to the DEP's penalty schedule a penalty of $2,000 for failure to survey an adequate portion of a wastewater collection system and take steps to reduce sanitary sewer overflows, pipe leaks, and inflow and infiltration. Substantial compliance with certain bill requirements is evidence in mitigation for penalty assessment.
- Prohibits facilities for sanitary sewage disposal from disposing of waste into the Indian River Lagoon and its tributaries without providing advanced waste treatment.
- Requires facilities for sanitary sewage disposal to provide for a power outage contingency plan for collection systems and pump stations.
- Requires facilities for sanitary sewage to prevent sanitary sewer overflows or underground pipe leaks and ensure that collected wastewater reaches the facility for appropriate treatment.
  - The bill requires studies, plans, and reports related to this requirement (the action plan).

  - The DEP must adopt rules regarding the implementation of inflow and infiltration studies and leakage surveys.
- Authorizes certain facilities for sanitary sewage to receive 10-year permits if they are meeting the goals in their action plan for inflow, infiltration, and leakage prevention.
- Makes the following changes relating to water pollution operation permits:
  - The permit must require the investigation or surveying of the wastewater collection system to determine pipe integrity.
  - The permit must require an annual report to the DEP, which details facility revenues and expenditures in a manner prescribed by the DEP rule, including any deviation from annual expenditures related to their action plan.
- Requires the DEP to submit an annual report to the Governor and the Legislature that identifies all wastewater utilities that experienced a sanitary sewer overflow in the preceding calendar year. The DEP must include with this report certain utility-specific information for each utility that experienced an overflow.

Regarding stormwater, the bill:
- Requires the DEP and the Water Management Districts (WMDs), by January 1, 2021, to initiate rulemaking to update their stormwater rules.
- Requires the DEP, by January 1, 2021, to evaluate inspection data relating to entities that self-certify their stormwater permits and provide the Legislature with recommendations for improvements to the self-certification program.
- Directs the DEP and the Department of Economic Opportunity to include in their model stormwater management program ordinances that target nutrient reduction practices and use green infrastructure.

Regarding agriculture, the bill:
- Requires the Department of Agriculture and Consumer Services (DACS) to collect and provide to the DEP fertilization and nutrient records from each agriculture producer enrolled in best management practices.
- Requires the DACS to perform onsite inspections of each agricultural producer that enrolls in a best management practice every two years.
- Authorizes the DACS and institutions of higher education with agricultural research programs to develop research plans and legislative budget requests relating to the evaluation and improvement of agricultural best management practices and agricultural nutrient reduction projects.

Regarding biosolids, the bill:
- Requires the DEP to adopt rules for biosolids management.
- Exempts the biosolids rules from legislative ratification if they are adopted prior to the 2021 legislative session.

The bill also creates a real-time water quality monitoring program, subject to appropriation, within the DEP.

The effective date of the bill is July 1, 2021.

II. Present Situation:

Water Quality and Nutrients

Phosphorus and nitrogen are naturally present in water and are essential nutrients for the healthy growth of plant and animal life. The correct balance of both nutrients is necessary for a healthy ecosystem; however, excessive nitrogen and phosphorus can cause significant water quality problems.

Phosphorus and nitrogen are derived from natural and human-made sources. Natural inputs include the atmosphere, soils, and the decay of plants and animals. Human-made sources include sewage disposal systems (wastewater treatment facilities and septic systems), overflows of storm and sanitary sewers (untreated sewage), agricultural production and irrigation practices, and stormwater runoff.[2]

Excessive nutrient loads may result in harmful algal blooms, nuisance aquatic weeds, and the alteration of the natural community of plants and animals. Dense, harmful algal blooms can also cause human health problems, fish kills, problems for water treatment plants, and impairment of the aesthetics and taste of waters. Growth of nuisance aquatic weeds tends to increase in nutrient-enriched waters, which can impact recreational activities.[3]

Blue-Green Algae Task Force

In January of 2019, Governor DeSantis issued the comprehensive Executive Order Number 19-12.[4] The order directed the Department of Environmental Protection (DEP) to establish a Blue-Green Algae Task Force charged with expediting progress towards reducing nutrient pollution and the impacts of blue-green algae (cyanobacteria) blooms in the state.[5] The task force's responsibilities include identifying priority projects for funding and making recommendations for regulatory changes. The five-person task force issued a consensus document on October 11, 2019.[6] To the extent that the task force has issued recommendations on topics addressed in this Present Situation, those recommendations are included in the relevant section.

Total Maximum Daily Loads

A total maximum daily load (TMDL), which must be adopted by rule, is a scientific determination of the maximum amount of a given pollutant that can be absorbed by a waterbody and still meet water quality standards.[7] Waterbodies or sections of waterbodies that do not meet the established water quality standards are deemed impaired. Pursuant to the federal Clean Water

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[2] U.S. Environmental Protection Agency (EPA), *Sources and Solutions*, https://www.epa.gov/nutrientpollution/sources-and-solutions (last visited Dec. 2, 2019).
[3] EPA, *The Problem*, https://www.epa.gov/nutrientpollution/problem (last visited Dec. 2, 2019).
[4] State of Florida, Office of the Governor, *Executive Order Number 19-12* (2019), *available at* https://www.flgov.com/wp-content/uploads/orders/2019/EO_19-12.pdf.
[5] *Id.* at 2; DEP, *Blue-Green Algae Task Force*, https://protectingfloridatogether.gov/state-action/blue-green-algae-task-force (last visited Dec. 2, 2019).
[6] DEP, *Blue-Green Algae Task Force Consensus Document #1* (Dec. 2, 2019), *available at* https://floridadep.gov/sites/default/files/Final%20Consensus%20%231_0.pdf.
[7] DEP, *Total Maximum Daily Loads Program*, https://floridadep.gov/dear/water-quality-evaluation-tmdl/content/total-maximum-daily-loads-tmdl-program (last visited Dec. 2, 2019).

Act, the DEP is required to establish a TMDL for impaired waterbodies.[8] A TMDL for an impaired waterbody is defined as the sum of the individual waste load allocations for point sources and the load allocations for nonpoint sources and natural background.[9] Point sources are discernible, confined, and discrete conveyances including pipes, ditches, and tunnels. Nonpoint sources are unconfined sources that include runoff from agricultural lands or residential areas.[10]

Basin Management Action Plans and Best Management Practices

The DEP is the lead agency in coordinating the development and implementation of TMDLs.[11] Basin management action plans (BMAPs) are one of the primary mechanisms the DEP uses to achieve TMDLs. BMAPs are plans that address the entire pollution load, including point and nonpoint discharges, for a watershed. BMAPs generally include:

- Permitting and other existing regulatory programs, including water quality based effluent limitations;
- Best management practices (BMPs) and non-regulatory and incentive-based programs, including cost-sharing, waste minimization, pollution prevention, agreements, and public education;
- Public works projects, including capital facilities; and
- Land acquisition.[12]

The DEP may establish a BMAP as part of the development and implementation of a TMDL for a specific waterbody. First, the BMAP equitably allocates pollutant reductions to individual basins, to all basins as a whole, or to each identified point source or category of nonpoint sources.[13] Then, the BMAP establishes the schedule for implementing projects and activities to meet the pollution reduction allocations. The BMAP development process provides an opportunity for local stakeholders, local government and community leaders, and the public to determine and share water quality cleanup responsibilities collectively.[14] BMAPs are adopted by secretarial order.[15]

BMAPs must include milestones for implementation and water quality improvement. They must also include an associated water quality monitoring component sufficient to evaluate whether reasonable progress in pollutant load reductions is being achieved over time. An assessment of

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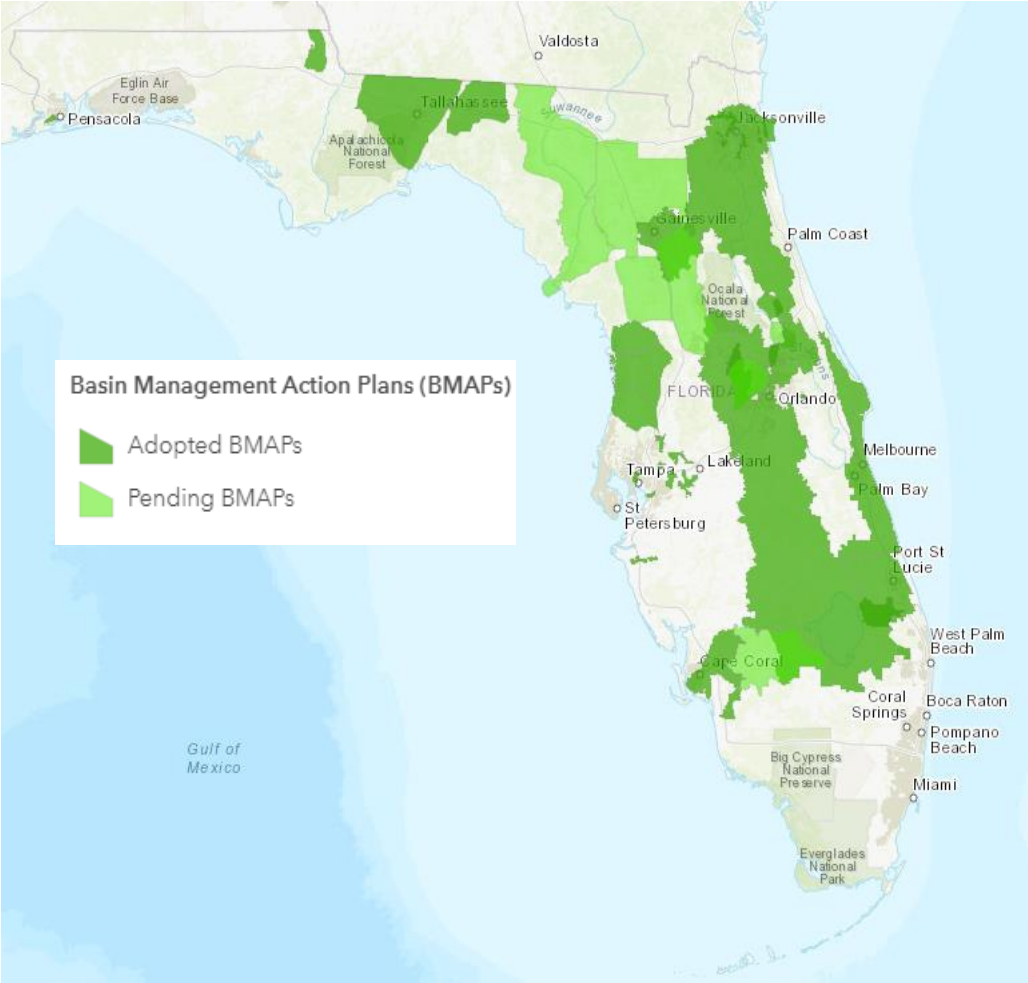
[8] Section 403.067(1), F.S.
[9] Section 403.031(21), F.S.
[10] Fla. Admin. Code R. 62-620.200(37). "Point source" is defined as "any discernible, confined, and discrete conveyance, including any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged." Nonpoint sources of pollution are sources of pollution that are not point sources. Nonpoint sources can include runoff from agricultural lands or residential areas; oil, grease and toxic materials from urban runoff; and sediment from improperly managed construction sites.
[11] Section 403.061, F.S. DEP has the power and the duty to control and prohibit pollution of air and water in accordance with the law and rules adopted and promulgated by it. Furthermore, s. 403.061(21), F.S., allows DEP to advise, consult, cooperate, and enter into agreements with other state agencies, the federal government, other states, interstate agencies, etc.
[12] Section 403.067(7), F.S.
[13] *Id*.
[14] DEP, *Basin Management Action Plans (BMAPs)*, https://floridadep.gov/dear/water-quality-restoration/content/basin-management-action-plans-bmaps (last visited Dec. 4, 2019).
[15] Section 403.067(7)(a)5., F.S.

progress toward these milestones must be conducted every five years, and revisions to the BMAP must be made as appropriate.[16]



Producers of nonpoint source pollution included in a BMAP must comply with the established pollutant reductions by either implementing the appropriate BMPs or by conducting water quality monitoring.[17] A nonpoint source discharger may be subject to enforcement action by the DEP or a water management district (WMD) based on a failure to implement these requirements.[18] BMPs are designed to reduce the amount of nutrients, sediments, and pesticides that enter the water system and to help reduce water use. BMPs are developed for agricultural operations as well as for other activities, such as nutrient management on golf courses, forestry operations, and stormwater management.[19]

[16] Section 403.067(7)(a)6., F.S.
[17] Section 403.067(7)(b)2.g., F.S. For example, BMPs for agriculture include activities such as managing irrigation water to minimize losses, limiting the use of fertilizers, and waste management.
[18] Section 403.067(7)(b)2.h., F.S.
[19] DEP, *NPDES Stormwater Program*, https://floridadep.gov/Water/Stormwater (last visited Dec. 2, 2019).

Currently, BMAPs are adopted or pending for a significant portion of the state and will continue to be developed as necessary to address water quality impairments. The graphic above shows the state's adopted and pending BMAPs.[20]

The Blue-Green Algae Task Force made the following recommendations for BMAPs:

- Include regional storage and treatment infrastructure in South Florida watersheds.
- Consider land use changes, legacy nutrients, and the impact of the BMAP on downstream waterbodies.
- Develop a more targeted approach to project selection.
- Evaluate project effectiveness through monitoring.[21]

Agricultural BMPs

Agricultural best management practices (BMPs) are practical measures that agricultural producers undertake to reduce the impacts of fertilizer and water use and otherwise manage the landscape to further protect water resources. BMPs are developed using the best available science with economic and technical consideration and, in certain circumstances, can maintain or enhance agricultural productivity.[22] BMPs are implemented by the Department of Agriculture and Consumer Services (DACS). Since the BMP program was implemented in 1999,[23] the DACS has adopted nine BMP manuals and is currently developing two more that cover nearly all major agricultural commodities in Florida. According to the annual report on BMPs prepared by the DACS, approximately 54 percent of agricultural acreage is enrolled in the DACS BMP program statewide.[24] Producers implementing BMPs receive a presumption of compliance with state water quality standards for the pollutants addressed by the BMPs[25] and those who enroll in the BMP program become eligible for technical assistance and cost-share funding for BMP implementation. To enroll in the BMP program, producers must meet with the Office of Agricultural Water Policy (OAWP) to determine the BMPs that are applicable to their operation and submit a Notice of Intent to Implement the BMPs, along with the BMP checklist from the applicable BMP manual.[26]

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[20] DEP, *Impaired Waters, TMDLs, and Basin Management Action Plans Interactive Map*, https://floridadep.gov/dear/water-quality-restoration/content/impaired-waters-tmdls-and-basin-management-action-plans (last visited Dec. 5, 2019).
[21] DEP, *Blue-Green Algae Task Force Consensus Document #1*, 2-4 (Oct. 11, 2019), *available at* https://floridadep.gov/sites/default/files/Final%20Consensus%20%231_0.pdf.
[22] Florida Department of Agriculture and Consumer Services Office of Agricultural Water Policy, *Status of Implementation of Agricultural Nonpoint Source Best Management Practices*, 3, (Jul. 1, 2019), *available at* https://www.fdacs.gov/ezs3download/download/84080/2481615/Media/Files/Agricultural-Water-Policy-Files/Status-of-Implementation-of-BMPs-Report-2019.pdf (last visited Dec. 5, 2019).
[23] The program was voluntary from 1999-2005. In 2005 the Florida Legislature modified the law requiring agricultural producers to adopt BMPs or conduct water quality monitoring.
[24] Florida Department of Agriculture and Consumer Services Office of Agricultural Water Policy, *Status of Implementation of Agricultural Nonpoint Source Best Management Practices*, 2, (Jul. 1, 2019), *available at* https://www.fdacs.gov/ezs3download/download/84080/2481615/Media/Files/Agricultural-Water-Policy-Files/Status-of-Implementation-of-BMPs-Report-2019.pdf (last visited Dec. 5, 2019).
[25] Section 403.067(7), F.S.
[26] Florida Department of Agriculture and Consumer Services Office of Agricultural Water Policy, *Status of Implementation of Agricultural Nonpoint Source Best Management Practices*, 3, (Jul. 1, 2019), *available at* https://www.fdacs.gov/ezs3download/download/84080/2481615/Media/Files/Agricultural-Water-Policy-Files/Status-of-Implementation-of-BMPs-Report-2019.pdf (last visited Dec. 5, 2019).

The University of Florida's Institute of Food and Agricultural Sciences (IFAS) is heavily involved in the adoption and implementation of BMPs. The IFAS provides expertise to both the DACS and agriculture producers, and has extension offices throughout Florida. The IFAS puts on summits and workshops on BMPs,[27] conducts research to issue recommendations for improving BMPs,[28] and issues training certificates for BMPs that require licenses such as Green Industry BMPs.[29]

For agriculture and BMPs, the Blue-Green Algae Task Force recommended:

- Increasing BMP enrollment.
- Improving records and additional data collection.
- Accelerating updates to BMP manuals.[30]

BMAPs for Outstanding Florida Springs

In 2016, the Legislature passed the Florida Springs and Aquifer Protection Act, which identified 30 "Outstanding Florida Springs" (OFS) that have additional statutory protections and requirements.[31] Key aspects of the Springs and Aquifer Protection Act relating to water quality include:

- The designation of a priority focus area for each OFS. A priority focus area of an OFS means the area or areas of a basin where the Florida Aquifer is generally most vulnerable to pollutant inputs where there is a known connectivity between groundwater pathways and an Outstanding Florida Spring, as determined by the DEP in consultation with the appropriate WMDs, and delineated in a BMAP;[32]
- The development of an onsite sewage treatment and disposal system (OSTDS) remediation plan[33] if it has been determined that OSTDSs within a priority focus area contribute at least 20 percent of nonpoint source nitrogen pollution or that remediation is necessary to achieve the TMDL;
- A 20-year timeline for implementation of the TMDL, including 5-, 10-, and 15-year targets;[34] and
- The prohibition against new OSTDSs on parcels of less than 1 acre, unless the system complies with the OSTDS remediation plan.[35]

The DEP is the lead agency in coordinating the preparation and adoption of the OSTDS remediation plan. The OSTDS remediation plan must include options for repair, upgrade,

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[27] UF/IFAS, *BMP Resource*, *available at* https://bmp.ifas.ufl.edu/ (last visited Dec. 5, 2019).
[28] UF/IFAS Everglades Research & Education Center, *Best Management Practices & Water Resources*, *available at* https://erec.ifas.ufl.edu/featured-3-menus/research-/best-management-practices--water-resources/ (last visited Dec. 5, 2019).
[29] UF/IFAS Florida-Friendly Landscaping, *GI-BMP Training Program Overview*, *available at* https://ffl.ifas.ufl.edu/professionals/BMP_overview.htm (last visited Dec. 5, 2019).
[30] *Id*.
[31] Chapter 2016-1, Laws of Fla.; *see* s. 373.802, F.S., Outstanding Florida Springs include all historic first magnitude springs, including their associated spring runs, as determined by DEP using the most recent Florida Geological Survey springs bulletin, and De Leon Springs, Peacock Springs, Poe Springs, Rock Springs, Wekiwa Springs, and Gemini Springs, and their associated spring runs.
[32] Section 373.802(5), F.S.
[33] Commonly called a "septic remediation plan."
[34] Section 373.807, F.S.
[35] Section 373.811, F.S.

replacement, drainfield modification, the addition of effective nitrogen reducing features, connection to a central sewerage system, or other action for a sewage system or group of systems.[36] The options must be cost-effective and financially feasible projects necessary to reduce the nutrient impacts from OSTDSs within the area.[37]

In June 2018, the DEP adopted 13 BMAPs, addressing all 24 nitrogen-impaired OFS.[38] Eight of these plans are currently effective, while five others are pending the outcome of legal challenges on various alleged deficiencies in the BMAPs.[39] These alleged deficiencies include lack of specificity in the required list of projects and programs identified to implement a TMDL, lack of detail in cost estimates, incomplete or unclear strategies for nutrient reduction, and failure to account for population growth and agricultural activity.

Wastewater Treatment Facilities

The proper treatment and disposal or reuse of domestic wastewater is an important part of protecting Florida's water resources. The majority of Florida's domestic wastewater is controlled and treated by centralized treatment facilities regulated by the DEP. Florida has approximately 2,000 permitted domestic wastewater treatment facilities.[40]

Chapter 403, F.S., requires that any facility or activity which discharges waste into waters of the state or which will reasonably be expected to be a source of water pollution must obtain a permit from the DEP.[41] Generally, persons who intend to collect, transmit, treat, dispose, or reuse wastewater are required to obtain a wastewater permit. A wastewater permit issued by the DEP is required for both operation and certain construction activities associated with domestic or industrial wastewater facilities or activities. A DEP permit must also be obtained prior to construction of a domestic wastewater collection and transmission system.[42]

Under section 402 of the Clean Water Act, any discharge of a pollutant from a point source to surface waters (i.e., the navigable waters of the United States or beyond) must obtain a National Pollution Discharge Elimination System (NPDES) permit.[43] NPDES permit requirements for most wastewater facilities or activities (domestic or industrial) that discharge to surface waters are incorporated into a state-issued permit, thus giving the permittee one set of permitting requirements rather than one state and one federal permit.[44] The DEP issues operation permits

[36] Section 373.807(3), F.S.
[37] *Id*.
[38] DEP, *Springs*, https://floridadep.gov/springs (last visited Nov. 26, 2019).
[39] *Our Santa Fe River, Inc., et. al. v. DEP*, No. 18-1601, DEP No. 18-2013; *Sierra Club v. DEP*, No. 17-1175, DEP No. 18-0204; *Friends of Wekiva River, Inc. v. DEP*, No. 18-1065, DEP No. 18-0217; *Thomas Greenhalgh v. DEP*, No. 17-1165, DEP No. 18-0204; *Paul Still v. DEP*, No. 18-1061; *Save the Manatee Club, Inc. v. DEP*, No. 17-1167, DEP No. 18-0206; *Silver Springs Alliance, Inc. and Rainbow River Conservation, Inc. v. DEP*, No. 18-1060, DEP No. 18-0211.
[40] DEP, *General Facts and Statistics About Wastewater in Florida*, https://floridadep.gov/water/domestic-wastewater/content/general-facts-and-statistics-about-wastewater-florida (last visited Dec. 2, 2019).
[41] Section 403.087, F.S.
[42] DEP, *Wastewater Permitting*, https://floridadep.gov/water/domestic-wastewater/content/wastewater-permitting (last visited Dec. 2, 2019).
[43] 33 U.S.C. s. 1342.
[44] Sections 403.061 and 403.087, F.S.

for a period of five years for facilities regulated under the NPDES program and up to 10 years for other domestic wastewater treatment facilities meeting certain statutory requirements.[45]

In its 2016 Report Card for Florida's Infrastructure, the American Society of Civil Engineers reported that the state's wastewater system is increasing in age and the condition of installed treatment and conveyance systems is declining.[46] As existing infrastructure ages, Florida utilities are placing greater emphasis on asset management systems to maintain service to customers. Population growth, aging infrastructure, and sensitive ecological environments are increasing the need to invest in Florida's wastewater infrastructure.[47]

Advanced Waste Treatment

Under Florida law, facilities for sanitary sewage disposal are required to provide for advanced waste treatment, as deemed necessary by the DEP.[48] The standard for advanced waste treatment is defined in statute using the maximum concentrations of nutrients or contaminants that a reclaimed water product may contain.[49] The standard also requires high-level disinfection.[50]

Nutrient or Contaminant	Maximum Concentration Annually
Biochemical Oxygen Demand	5 mg/L
Suspended Solids	5 mg/L
Total Nitrogen	3 mg/L
Total Phosphorus	1 mg/L

Facilities for sanitary sewage disposal are prohibited from disposing of waste into certain waters in the state without providing advanced waste treatment approved by the DEP.[51] Specifically, Tampa Bay is viewed as a success story for this type of prohibition.

> [Tampa Bay is] one of the few estuaries in the U.S. that has shown evidence of improving environmental conditions. These water-quality improvements have been due, in large part, to upgrades in wastewater-treatment practices at municipal wastewater-treatment plants in the region. Since 1980, all wastewater-treatment plants that discharge to the bay or its tributaries have been required by state legislation to meet advanced

[45] Section 403.087(3), F.S.
[46] American Society of Civil Engineers, *Report Card for Florida's Infrastructure* (2016), *available at* https://www.infrastructurereportcard.org/wp-content/uploads/2017/01/2016_RC_Final_screen.pdf.
[47] *Id*.
[48] Section 403.086(2), F.S.
[49] Section 403.086(4), F.S.
[50] Section 403.086(4)(b), F.S.; Fla. Admin. Code R. 62-600.440(6).
[51] Section 403.086(1)(c), F.S. Facilities for sanitary sewage disposal may not dispose of any wastes into Old Tampa Bay, Tampa Bay, Hillsborough Bay, Boca Ciega Bay, St. Joseph Sound, Clearwater Bay, Sarasota Bay, Little Sarasota Bay, Roberts Bay, Lemon Bay, or Charlotte Harbor Bay, or into any river, stream, channel, canal, bay, bayou, sound, or other water tributary thereto, without providing advanced waste treatment approved by DEP. This prohibition does not apply to facilities permitted by February 1, 1987, and which discharge secondary treated effluent, followed by water hyacinth treatment, to tributaries of the named waters; or to facilities permitted to discharge to the nontidally influenced portions of the Peace River.

wastewater-treatment standards, a step that has reduced the annual nutrient loads from these sources by about 90 percent.[52]

Sanitary Sewer Overflows, Leakages, and Inflow and Infiltration

Although domestic wastewater treatment facilities are permitted and designed to safely and properly collect and manage a specified wastewater capacity, obstructions or extreme conditions can cause a sanitary sewer overflow (SSO). Any overflow, spill, release, discharge, or diversion of untreated or partially treated wastewater from a sanitary sewer system is a SSO.[53] A SSO may subject the owner or operator of a facility to civil penalties of not more than $10,000 for each offense, a criminal conviction or fines, and additional administrative penalties.[54] Each day during the period in which a violation occurs constitutes a separate offense.[55] However, administrative penalties are capped at $10,000.[56]

A key concern with SSOs entering rivers, lakes, or streams is their negative effect on water quality. In addition, because SSOs contain partially treated or potentially untreated domestic wastewater, ingestion or similar contact may cause illness. People can be exposed through direct contact in areas of high public access, food that has been contaminated, inhalation, and skin absorption. The Department of Health (DOH) issues health advisories when bacteria levels present a risk to human health and may post warning signs when bacteria affect public beaches or other areas where there is a risk of human exposure.[57]

Reduction of SSOs can be achieved through:

- Cleaning and maintaining the sewer system;
- Reducing inflow and infiltration through rehabilitation and repairing broken or leaking lines;
- Enlarging or upgrading sewer, pump station, or sewage treatment plant capacity and/or reliability; and
- Constructing wet weather storage and treatment facilities to treat excess flows.[58]

Inflow and Infiltration (I&I) occurs when groundwater and/or rainwater enters the sanitary sewer system and ends up at the wastewater treatment facility, necessitating its treatment as if it were wastewater.[59] I&I can be caused by groundwater infiltrating the sewer system through faulty pipes or infrastructure, or any inflows of rainwater or non-wastewater into the sewer system.

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[52] U.S. Department of the Interior and U.S. Geological Survey, *Integrating Science and Resource Management in Tampa Bay, Florida*, 110 (2011), *available at* https://pubs.usgs.gov/circ/1348/pdf/Chapter%205_105-156.pdf (internal citations omitted).
[53] DEP, *Sanitary Sewer Overflows (SSOs), available at* https://floridadep.gov/sites/default/files/sanitary-sewer-overflows.pdf (last visited Dec. 4, 2019).
[54] Sections 403.121 and 403.141, F.S.
[55] *Id*.
[56] Section 403.121(2)(b),(8), and (9), F.S.
[57] DEP, *SSOs, available at* https://floridadep.gov/sites/default/files/sanitary-sewer-overflows.pdf.
[58] *Id*.
[59] City of St. Augustine, *Inflow & Infiltration Elimination Program*, https://www.citystaug.com/549/Inflow-Infiltration-Elimination-Program (last visited Dec. 6, 2019).

I&I is a major cause of SSOs in Florida.[60] When domestic wastewater facilities are evaluated for permit renewal, collection systems are not evaluated for issues such as excessive infiltration/inflow unless problems result at the treatment plant.[61] Another major cause of SSOs is the loss of electricity to the infrastructure for the collection and transmission of wastewater, such as pump stations, especially during storms.[62] Pump stations receiving flow from another station through a force main, or those discharging through pipes 12 inches or larger, must have emergency generators.[63] All other pump stations must have emergency pumping capability through one of three specified arrangements.[64] These requirements for emergency pumping capacity only apply to domestic wastewater collection/transmission facilities existing after November 6, 2003, unless facilities existing prior to that date are modified.[65]

The Blue-Green Algae Task Force made the following recommendations relating to SSOs:

- Emergency back-up capabilities should be required for all lift stations constructed prior to 2003.
- The DEP and wastewater facilities should take a more proactive approach to infiltration and inflow issues.[66]

Wastewater Asset Management

Asset management is the practice of managing infrastructure capital assets to minimize the total cost of owning and operating these assets while delivering the desired service levels.[67] Many utilities use asset management to pursue and achieve sustainable infrastructure. A high-performing asset management program includes detailed asset inventories, operation and maintenance tasks, and long-range financial planning.[68]

Each utility is responsible for making sure that its system stays in good working order, regardless of the age of its components or the availability of additional funds.[69] Asset management programs with good data can be the most efficient method of meeting this challenge. Some key

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[60] *See generally* RS&H, Inc., *Evaluation of Sanitary Sewer Overflows and Unpermitted Discharges Associated with Hurricanes Hermine and Matthew* (Jan. 2017), *available at* https://floridadep.gov/sites/default/files/Final%20Report_Evaluation%20of%20SSO%20and%20Unpermitted%20Discharges%2001_06_17.pdf.

[61] Fla. Admin. Code R. 62-600.735; *see* Fla. Admin. Code R. 62-600.200. "Collection/transmission systems" are defined as "sewers, pipelines, conduits, pumping stations, force mains, and all other facilities used for collection and transmission of wastewater from individual service connections to facilities intended for the purpose of providing treatment prior to release to the environment."

[62] *See generally* RS&H, Inc., *Evaluation of Sanitary Sewer Overflows and Unpermitted Discharges Associated with Hurricanes Hermine and Matthew* (Jan. 2017), *available at* https://floridadep.gov/sites/default/files/Final%20Report_Evaluation%20of%20SSO%20and%20Unpermitted%20Discharges%2001_06_17.pdf.

[63] Fla. Admin. Code R. 62-604.400.

[64] *Id*.

[65] Fla. Admin. Code R. 62-604.100.

[66] DEP, *Blue-Green Algae Task Force Consensus Document #1*, 7 (Oct. 11, 2019), *available at* https://floridadep.gov/sites/default/files/Final%20Consensus%20%231_0.pdf.

[67] EPA, *Sustainable Water Infrastructure - Asset Management for Water and Wastewater Utilities*, https://www.epa.gov/sustainable-water-infrastructure/asset-management-water-and-wastewater-utilities (last visited Dec 9, 2019).

[68] *Id*.

[69] *Id*.

steps for asset management are making an inventory of critical assets, evaluating the condition and performance of such assets, and developing plans to maintain, repair, and replace assets and to fund these activities.[70] The EPA provides guidance and reference manuals for utilities to aid in developing asset management plans.[71]

Many states, including Florida, provide financial incentives for the development and implementation of an asset management plan when requesting funding under a State Revolving Fund or other state funding mechanism.[72] Florida's incentives include priority scoring,[73] reduction of interest rates,[74] principal forgiveness for financially disadvantaged small communities,[75] and eligibility for small community wastewater facilities grants.[76]

In 2016, the Legislature authorized the Public Service Commission (PSC) to allow a utility to create a utility reserve fund for repair and replacement of existing distribution and collection infrastructure that is nearing the end of its useful life or is detrimental to water quality or reliability of service. The utility reserve fund would be funded by a portion of the rates charged by the utility, by a secured escrow account, or through a letter of credit.

The PSC adopted rules governing the implementation, management, and use of the fund, including expenses for which the fund may be used, segregation of reserve account funds, requirements for a capital improvement plan, and requirements for the PSC authorization before fund disbursements.[77] The PSC requires an applicant to provide a capital improvement plan or an asset management plan in seeking authorization to create a utility reserve fund.[78]

Onsite Sewage Treatment and Disposal Systems

Onsite sewage treatment and disposal systems (OSTDSs), commonly referred to as "septic systems," generally consist of two basic parts: the septic tank and the drainfield.[79] Waste from toilets, sinks, washing machines, and showers flows through a pipe into the septic tank, where anaerobic bacteria break the solids into a liquid form. The liquid portion of the wastewater flows into the drainfield, which is generally a series of perforated pipes or panels surrounded by lightweight materials such as gravel or Styrofoam. The drainfield provides a secondary treatment

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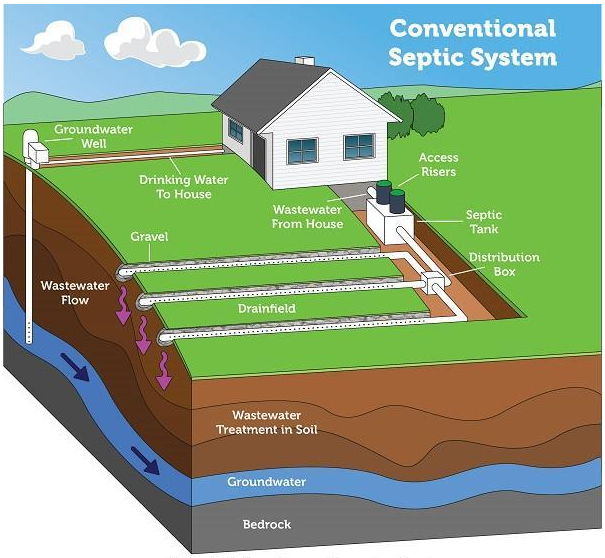
[70] *Id*.
[71] EPA, *Asset Management: A Best Practices Guide* (2008), *available at* https://nepis.epa.gov/Exe/ZyPDF.cgi/P1000LP0.PDF?Dockey=P1000LP0.PDF; EPA, *Reference Guide for Asset Management Tools/Asset Management Plan Components and Implementation Tools for Small and Medium Sized Drinking Water and Wastewater Systems* (May 2014), *available at* https://www.epa.gov/sites/production/files/2016-04/documents/am_tools_guide_may_2014.pdf.
[72] EPA, *State Asset Management Initiatives* (Aug. 2012), *available at* https://www.epa.gov/sites/production/files/2016-04/documents/state_asset_management_initiatives_11-01-12.pdf.
[73] Fla. Admin. Code R. 62-503.300(e).
[74] Fla. Admin. Code R. 62-503.300(5)(b)1. and 62-503.700(7).
[75] Fla. Admin. Code R. 62-503.500(4).
[76] Fla. Admin. Code R. 62-505.300(d) and 62-505.350(5)(c).
[77] Fla. Admin. Code R. 25-30.444.
[78] Fla. Admin. Code R. 25-30.444(2)(e) and (m).
[79] DOH, *Septic System Information and Care*, http://columbia.floridahealth.gov/programs-and-services/environmental-health/onsite-sewage-disposal/septic-information-and-care.html (last visited Dec. 2, 2019); EPA, *Types of Septic Systems*, https://www.epa.gov/septic/types-septic-systems (last visited Dec. 2, 2019) (showing the graphic provided in the analysis).

where aerobic bacteria continue deactivating the germs. The drainfield also provides filtration of the wastewater, as gravity draws the water down through the soil layers.[80]



Please note: Septic systems vary. Diagram is not to scale.

The DOH administers OSTDS programs, develops statewide rules, and provides training and standardization for county health department employees responsible for issuing permits for the installation and repair of OSTDSs within the state.[81] The DOH regulations focus on construction standards and setback distances. The regulations are primarily designed to protect the public from waterborne illnesses.[82] The DOH also conducts research to evaluate performance, environmental health, and public health effects of OSTDSs. Innovative OSTDS products and technologies must be approved by the DOH.[83]

The DOH and the DEP have an interagency agreement that standardizes procedures and clarifies responsibilities between them regarding the regulation of OSTDSs.[84] The DEP has jurisdiction over OSTDSs when: domestic sewage flow exceeds 10,000 gallons per day; commercial sewage flow exceeds 5,000 gallons per day; there is a likelihood of hazardous or industrial wastes; a sewer system is available; or if any system or flow from the establishment is currently regulated by the DEP (unless the DOH grants a variance).[85] In all other circumstances, the DOH regulates OSTDSs.

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[80] *Id.*
[81] Section 381.0065(3), F.S.
[82] DOH, *Overview of Onsite Sewage Treatment and Disposal Systems*, 5 (Aug. 1, 2019), http://floridadep.gov/file/19018/download?token=6r94Bi2B.
[83] Section 381.0065(3), F.S.
[84] *Interagency Agreement Between the Department of Environmental Protection and the Department of Health for Onsite Sewage Treatment and Disposal Systems* (Sept. 30, 2015), *available at* https://floridadep.gov/sites/default/files/HOHOSTDS_9_30_15.pdf.
[85] *Id.* at 6-13; s. 381.0065(3)(b), F.S.; DEP, *Septic Systems*, https://floridadep.gov/water/domestic-wastewater/content/septic-systems (last visited Dec. 2, 2019).

There are an estimated 2.6 million OSTDSs in Florida, providing wastewater disposal for 30 percent of the state's population.[86] In Florida, development in some areas is dependent on OSTDSs due to the cost and time it takes to install central sewer systems.[87] For example, in rural areas and low-density developments, central sewer systems are not cost-effective. Less than one percent of OSTDSs in Florida are actively managed under operating permits and maintenance agreements.[88] The remainder of systems are generally serviced only when they fail, often leading to costly repairs that could have been avoided with routine maintenance.[89]

In a conventional OSTDS, a septic tank does not reduce nitrogen from the raw sewage. In Florida, approximately 30-40 percent of the nitrogen levels are reduced in the drainfield of a system that is installed 24 inches or more from groundwater.[90] This still leaves a significant amount of nitrogen to percolate into the groundwater, which makes nitrogen from OSTDSs a potential contaminant in groundwater.[91]

Different types of advanced OSTDSs exist that can remove greater amounts of nitrogen than a typical septic system (often referred to as "advanced" or "nutrient-reducing" septic systems).[92] The DOH publishes on its website approved products and resources on advanced systems.[93] Determining which advanced system is the best option can depend on site-specific conditions.

The owner of a properly functioning OSTDS must connect to a sewer system within one year of receiving notification that a sewer system is available for connection.[94] Owners of an OSTDS in need of repair or modification must connect within 90 days of notification from the DOH.[95]

The Blue-Green Algae Task Force made the following recommendations relating to OSTDSs:

- The DEP should develop a more comprehensive regulatory program to ensure that OSTDSs are sized, designed, constructed, installed, operated, and maintained to prevent nutrient pollution, reduce environmental impact, and preserve human health.
- More post-permitting septic tank inspections should take place.
- Protections for vulnerable areas in the state should be expanded.

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[86] DOH, *Onsite Sewage*, http://www.floridahealth.gov/environmental-health/onsite-sewage/index.html (last visited Dec. 2, 2019).
[87] DOH, *Report on Range of Costs to Implement a Mandatory Statewide 5-Year Septic Tank Inspection Program*, Executive Summary (Oct. 1, 2008), *available at* http://www.floridahealth.gov/environmental-health/onsite-sewage/research/_documents/rrac/2008-11-06.pdf. The report begins on page 56 of the PDF.
[88] *Id*.
[89] *Id*.
[90] DOH, *Florida Onsite Sewage Nitrogen Reduction Strategies Study*, *Final Report 2008-2015*, 21 (Dec. 2015), *available at* http://www.floridahealth.gov/environmental-health/onsite-sewage/research/draftlegreportsm.pdf; *see* Fla. Admin. Code R. 64E-6.006(2).
[91] University of Florida Institute of Food and Agricultural Sciences (IFAS), *Onsite Sewage Treatment and Disposal Systems: Nitrogen*, 3 (Feb. 2014), *available at* http://edis.ifas.ufl.edu/pdffiles/SS/SS55000.pdf.
[92] DOH, *Nitrogen-Reducing Systems for Areas Affected by the Florida Springs and Aquifer Protection Act* (2019), *available at* http://www.floridahealth.gov/environmental-health/onsite-sewage/products/_documents/bmap-n-reducing-tech-18-10-29.pdf.
[93] DOH, *Onsite Sewage Programs*, *Product Listings and Approval Requirements*, http://www.floridahealth.gov/environmental-health/onsite-sewage/products/index.html (last visited Dec. 2, 2019).
[94] Section 381.00655, F.S.
[95] *Id*.

- Additional funding to accelerate septic to sewer conversions.[96]

The DOH Technical Review and Advisory Panel

The DOH has a technical review and advisory panel to review agency rules and provide assistance to the DOH with rule adoption.[97] It is comprised of, at a minimum:

- A soil scientist;
- A professional engineer registered in this state who is recommended by the Florida Engineering Society and who has work experience in OSTDSs;
- Two representatives from the home-building industry recommended by the Florida Home Builders Association, including one who is a developer in this state who develops lots using onsite sewage treatment and disposal systems;
- A representative from the county health departments who has experience permitting and inspecting the installation of onsite sewage treatment and disposal systems in this state;
- A representative from the real estate industry who is recommended by the Florida Association of Realtors;
- A consumer representative with a science background;
- Two representatives of the septic tank industry recommended by the Florida Onsite Wastewater Association, including one who is a manufacturer of onsite sewage treatment and disposal systems;
- A representative from local government who is knowledgeable about domestic wastewater treatment and who is recommended by the Florida Association of Counties and the Florida League of Cities; and
- A representative from the environmental health profession who is recommended by the Florida Environmental Health Association and who is not employed by a county health department.[98]

Members are to be appointed for a term of two years. The panel may also, as needed, be expanded to include ad hoc, nonvoting representatives who have topic-specific expertise.[99]

Stormwater Management

Stormwater is the flow of water resulting from, and immediately following, a rainfall event.[100] When stormwater falls on pavement, buildings, and other impermeable surfaces, the runoff flows

[96] DEP, *Blue-Green Algae Task Force Consensus Document #1*, 6-7 (Oct. 11, 2019), *available at* https://floridadep.gov/sites/default/files/Final%20Consensus%20%231_0.pdf.
[97] Section 381.0068, F.S.
[98] *Id*.
[99] *Id*.
[100] DEP and Water Management Districts, *Environmental Resource Permit Applicant's Handbook Volume I (General and Environmental)*, 2-10 (June 1, 2018), *available at* https://www.swfwmd.state.fl.us/sites/default/files/medias/documents/Appliicant_Hanbook_I_-_Combined.pd_0.pdf.

quickly and can pick up sediment, nutrients (such as nitrogen and phosphorous), chemicals, and other pollutants.[101] Stormwater pollution is a major source of water pollution in Florida.[102]

There are two main regulatory programs to address water quality from stormwater: the federal program that regulates discharges of pollutants into waters of the United States[103] and the state Environmental Resource Permitting (ERP) Program that regulates activities involving the alteration of surface water flows.[104] The federal NPDES Stormwater Program regulates the following types of stormwater pollution:[105]

- Certain municipal storm sewer systems;
- Runoff from certain construction activities; and
- Runoff from industrial activities.[106]

Florida's ERP Program includes regulation of activities that create stormwater runoff, as well as dredging and filling in wetlands and other surface waters.[107] ERPs are designed to prevent flooding, protect wetlands and other surface waters, and protect Florida's water quality from stormwater pollution.[108] The statewide ERP Program is implemented by the DEP, the WMDs, and certain local governments. The ERP Applicant Handbook, incorporated by reference into the DEP rules, provides guidance on the DEP's ERP Program, including stormwater topics such as the design of stormwater management systems.[109]

The DEP and the WMDs are authorized to require permits and impose reasonable conditions:

- To ensure that construction or alteration of stormwater management systems and related structures are consistent with applicable law and not harmful to water resources;[110] and
- For the maintenance or operation of such structures.[111]

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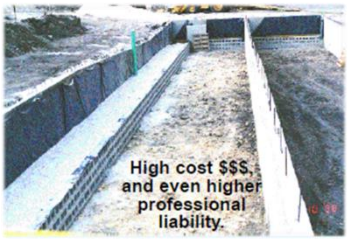
[101] DEP, *Stormwater Management*, 1 (2016), *available at* https://floridadep.gov/sites/default/files/stormwater-management_0.pdf. When rain falls on fields, forests, and other areas with naturally permeable surfaces the water not absorbed by plants filters through the soil and replenishes Florida's groundwater supply.
[102] DEP, *Stormwater Support*, https://floridadep.gov/water/engineering-hydrology-geology/content/stormwater-support (last visited Dec. 2, 2019); DEP, *Nonpoint Source Program Update*, 10 (2015), *available at* https://floridadep.gov/sites/default/files/NPS-ManagementPlan2015.pdf.
[103] National Pollutant Discharge Elimination System (NPDES), 33 U.S.C. s. 1342 (2019); 40 C.F.R. pt. 122.
[104] Chapter 373, pt. IV, F.S.; Fla. Admin. Code Ch. 62-330.
[105] A point source is discernible, confined and discrete conveyance, such as a pipe, ditch, channel, tunnel, conduit, discrete fissure, or container. *See* The Clean Water Act, 33 U.S.C. s. 1362(14) and 40 C.F.R. 122.2; Stormwater can be either a pointsource or a nonpoint source of pollution. EPA, *Monitoring and Evaluating Nonpoint Source Watershed Projects*, 1-1, *available at* https://www.epa.gov/sites/production/files/2016-02/documents/chapter_1_draft_aug_2014.pdf; DEP, *Nonpoint Source Program Update*, 9 (2015), *available at* https://floridadep.gov/sites/default/files/NPS-ManagementPlan2015.pdf.
[106] *See generally* EPA, *NPDES Stormwater Program*, https://www.epa.gov/npdes/npdes-stormwater-program (last visited Dec. 2, 2019).
[107] DEP, *DEP 101: Environmental Resource Permitting*, https://floridadep.gov/comm/press-office/content/dep-101-environmental-resource-permitting (last visited Dec 2, 2019).
[108] South Florida Water Management District, *Environmental Resource Permits*, https://www.sfwmd.gov/doing-business-with-us/permits/environmental-resource-permits (last visited Dec. 2, 2019).
[109] Fla. Admin. Code R. 62-330.010(4); DEP and WMDs, *Environmental Resource Permit Applicant's Handbook Volume I (General and Environmental)*, 2-10 (June 1, 2018), *available at* https://www.swfwmd.state.fl.us/sites/default/files/medias/documents/Appliicant_Hanbook_I_-_Combined.pd_0.pdf; , *Environmental Resource Permit Applicant's Handbook Volume II*, *available at* https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/erp-stormwater (last visited Dec. 2, 2019).
[110] Section 373.413, F.S.; *see* s. 403.814(12), F.S.
[111] Section 373.416, F.S.

The DEP's stormwater rules are technology-based effluent limitations rather than water quality-based effluent limitations.[112] This means that stormwater rules rely on design criteria for BMPs to achieve a performance standard for pollution reduction, rather than specifying the amount of a specific pollutant that may be discharged to a waterbody and still ensure that the waterbody attains water quality standards.[113] The rules contain minimum stormwater treatment performance standards, which require design and performance criteria for new stormwater management systems to achieve at least 80 percent reduction of the average annual load of pollutants that would cause or contribute to violations of state water quality standards.[114] The standard is 95 percent reduction when applied to Outstanding Florida Waters. In 2007, an evaluation performed for the DEP generally concluded that Florida's stormwater design criteria failed to consistently meet either the 80 percent or 95 percent target goals in the DEP's rules.[115] The images shown here depict six major types of surface water management systems:[116]

"Filtered" Ponds



Underground Vaults

"Dry" Retention Ponds

"Wet" Detention Ponds

Underground Exfiltration Trenches

Pervious Pavement

[112] DEP, *ERP Stormwater*, https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/erp-stormwater (last visited Nov. 8, 2019).
[113] See generally, EPA, National Pollutant Discharge Elimination System (NPDES), www.epa.gov/npdes/npdes-permit-limits (last visited Dec. 2, 2019).
[114] Fla. Admin. Code R. 62-40.432(2).
[115] Environmental Research & Design, Inc., *Evaluation of Current Stormwater Design Criteria Within the State of Florida*, 6-1 (2007), *available at* https://www.sfwmd.gov/sites/default/files/documents/sw%20treatment%20report-final71907.pdf. The report makes an exception for the St. John's River Water Management District's standards for on-line dry retention.
[116] Presentation to the Blue-Green Algae Task Force by Benjamin Melnik, Deputy Director of the Division of Water Resource Management, *Stormwater*, 12 (September 24, 2019) (on file with Committee on Environment and Natural Resources).

The DEP and the WMDs must require applicants to provide reasonable assurance that state water quality standards will not be violated.[117] If a stormwater management system is designed in accordance with the stormwater treatment requirements and criteria adopted by the DEP or the WMDs, then the system design is presumed not to cause or contribute to violations of applicable state water quality standards.[118] If a stormwater management system is constructed, operated, and maintained for stormwater treatment in accordance with a valid permit or exemption, then the stormwater discharged from the system is presumed not to cause or contribute to violations of applicable state water quality standards.[119] If an applicant is unable to meet water quality standards because existing ambient water quality does not meet standards, the DEP or a WMD must consider mitigation measures that cause a net improvement of the water quality in the water body that does not meet the standards.[120]

2010 Stormwater Rulemaking

From 2008 to 2010, the DEP and the WMDs worked together on developing a statewide unified stormwater rule to protect Florida's surface waters from the effects of excessive nutrients in stormwater runoff.[121] A technical advisory committee was established. In 2010, the DEP announced a series of workshops to present for public comment the statewide stormwater quality draft rule Chapter 62-347 of the Florida Administrative Code and an Applicant's Handbook.[122] The notice stated the goal of the rule was to "increase the level of nutrient treatment in stormwater discharges and provide statewide consistency by establishing revised stormwater quality treatment performance standards and best management practices design criteria."[123]

These rulemaking efforts produced a draft document called the "Environmental Resource Permit Stormwater Quality Applicant's Handbook: Design Requirements for Stormwater Treatment in Florida."[124] The 2010 draft handbook's stormwater quality permitting requirements:

- Provided for different stormwater treatment performance standards based on various classifications of water quality.[125]

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[117] Section 373.414(1), F.S.; *see* s. 373.403(11), F.S.; *see* Fla. Admin. Code Ch. 62-4, 62-302, 62-520, and 62-550.
[118] Section 373.4131(3)(b), F.S. Fla. Admin. Code R. 62-40.432(2); *see also* DEP, *ERP Stormwater*, https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/erp-stormwater (last visited Dec. 2, 2019) (stating that a key component of the stormwater rule is a "rebuttable presumption that discharges from a stormwater management system designed in accordance with the BMP design criteria will not cause harm to water resources").
[119] Section 373.4131(3)(c), F.S.
[120] Section 373.414(1)(b)3., F.S.
[121] South Florida Water Management District, *Quick Facts on the Statewide Unified Stormwater Rule*, *available at* https://www.sfwmd.gov/sites/default/files/documents/spl_stormwater_rule.pdf.
[122] Florida Administrative Register, Notices of Meetings, Workshops, and Public Hearings, *Notice of Rescheduling*, pg. 1885 (Apr. 23, 2010), *available at* https://www.flrules.org/Faw/FAWDocuments/FAWVOLUMEFOLDERS2010/3616/3616doc.pdf.
[123] *Id.*
[124] DEP and Water Management Districts, *March 2010 Draft, Environmental Resource Permit Stormwater Quality Applicant's Handbook, Design Requirements for Stormwater Treatment Systems in Florida* (2010), *available at* https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/content2/roadway/drainage/files/stormwaterqualityapphb-draft.pdf?sfvrsn=579bf184_0.
[125] *Id.* at 6-7.

- Included instructions for calculating a project's required nutrient load reduction based on comparing the predevelopment and post-development loadings.[126]
- Provided the required criteria for stormwater BMPs.
- Listed fifteen different types of stormwater treatment systems, including low impact design, pervious pavements, and stormwater harvesting.[127]

The new rule and revised handbook were expected to be adopted in 2011.[128] However, no such rules or revised handbook were ever adopted. While the draft Stormwater Quality Applicant's Handbook never went into effect, it can provide context for understanding what new rules on these topics may look like.

The Blue-Green Algae Task Force recommended that the DEP revise and update stormwater design criteria and implement an effective inspection and monitoring program.[129]

Water Quality Monitoring

One of the DEP's goals is to determine the quality of the state's surface and ground water resources. This goal is primarily accomplished through several water quality monitoring strategies that are administered through the Water Quality Assessment Program. Responsibilities of the program include: monitoring and assessing how water quality is changing over time; the overall water quality and impairment status of the state's water resources; and the effectiveness of water resource management, protection, and restoration programs.[130]

Within the Water Quality Assessment Program, the DEP administers the Watershed Monitoring Program. This program is responsible for collecting reliable data through water samples from rivers, streams, lakes, canals, and wells around the state.[131] This information is used by the DEP to determine which waters are impaired and what restoration efforts are needed.

The Blue-Green Algae Task Force recommended that science-based decision making and monitoring programs be enhanced, including the development of an expanded and more comprehensive statewide water quality monitoring strategy. Monitoring programs should focus on informing restoration project selection, implementation, and evaluation.[132]

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[126] *Id.* at 8-11.
[127] *Id.* at 3.
[128] Nicole C. Kibert, *Status of Low Impact Development in Florida and Legal Considerations for Operation and Maintenance of LID Systems*, FLORIDA BAR JOURNAL Vol. 85, No. 1 (2011), https://www.floridabar.org/the-florida-bar-journal/status-of-low-impact-development-in-florida-and-legal-considerations-for-operation-and-maintenance-of-lid-systems/ (last visited Nov. 14, 2019).
[129] DEP, *Blue-Green Algae Task Force Consensus Document #1* (Dec. 2, 2019), *available at* https://floridadep.gov/sites/default/files/Final%20Consensus%20%231_0.pdf.
[130] DEP, *Water Quality Assessment Program*, https://floridadep.gov/dear/water-quality-assessment (last visited Dec. 2, 2019).
[131] DEP, *Watershed Monitoring*, https://floridadep.gov/dear/watershed-monitoring-section (last visited Dec. 2, 2019).
[132] DEP, *Blue-Green Algae Task Force Consensus Document #1* (Oct. 11, 2019), *available at* https://floridadep.gov/sites/default/files/Final%20Consensus%20%231_0.pdf.

Indian River Lagoon

The Indian River Lagoon (IRL) system is an estuary[133] that runs along 156 miles of Florida's east coast and borders Volusia, Brevard, Indian River, St. Lucie, and Martin counties.[134] The IRL system is composed of three main waterbodies: Mosquito Lagoon, Banana River, and the Indian River Lagoon.[135] Four BMAPs have been adopted for the IRL region.[136]

The IRL is one of the most biologically diverse estuaries in North America and is home to more than 2,000 species of plants, 600 species of fish, 300 species of birds, and 53 endangered or threatened species.[137] The estimated economic value received from the IRL in 2014 was approximately $7.6 billion.[138] Industry groups that are directly influenced by the IRL support nearly 72,000 jobs.[139]

The IRL ecosystem has been harmed by human activities in the region. Stormwater runoff from urban and agricultural areas, wastewater treatment facility discharges, canal discharges, septic systems, animal waste, and fertilizer applications have led to harmful levels of nutrients and sediments entering the lagoon.[140] These pollutants create cloudy conditions, feed algal blooms, and lead to muck accumulation, all of which negatively impact the seagrass that provides habitat for much of the IRL's marine life.[141]

Type Two Transfer

Section 20.06(2), F.S., defines a type two transfer as the merging of an existing department, program, or activity into another department. Any program or activity transferred by a type two transfer retains all the statutory powers, duties, and functions it held previous to the transfer. The program or activity also retains its records, personnel, property, and unexpended balances of appropriations, allocations, or other funds, unless otherwise provided by law. The transfer of

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[133] An estuary is a partially enclosed, coastal waterbody where freshwater from rivers and streams mixes with saltwater from the ocean. Estuaries are among the most productive ecosystems on earth, home to unique plant and animal communities that have adapted to brackish water: freshwater mixed with saltwater. U.S. EPA, *What Is An Estuary?*, https://www.epa.gov/nep/basic-information-about-estuaries (last visited Dec. 2, 2019); NOAA, *What Is An Estuary?*, https://oceanservice.noaa.gov/facts/estuary.html (last visited Dec. 2, 2019).
[134] IRL National Estuary Program, *About the Indian River Lagoon*, http://www.irlcouncil.com/ (last visited Dec. 2, 2019).
[135] *Id*.
[136] East Central Florida Regional Planning Council and the Treasure Coast Regional Planning Council, *Indian River Lagoon Economic Valuation Update*, x (Aug. 26, 2016), *available at* http://tcrpc.org/special_projects/IRL_Econ_Valu/FinalReportIRL08_26_2016.pdf; DEP, *Basin Management Action Plans (BMAPs)*, https://floridadep.gov/dear/water-quality-restoration/content/basin-management-action-plans-bmaps (last visited Dec. 2, 2019).
[137] IRL National Estuary Program, *About the Indian River Lagoon*, http://www.irlcouncil.com/ (last visited Dec. 2, 2019).
[138] East Central Florida Regional Planning Council and the Treasure Coast Regional Planning Council, *Indian River Lagoon Economic Valuation Update*, vi (Aug. 26, 2016), *available at* http://tcrpc.org/special_projects/IRL_Econ_Valu/FinalReportIRL08_26_2016.pdf.
[139] *Id.* at ix. The main IRL-related industry groups are categorized as: Living Resources; Marine Industries; Recreation and Visitor-related; Resource Management; and Defense & Aerospace.
[140] Tetra Tech, Inc. & Closewaters, LLC, *Draft Save Our Indian River Lagoon Project Plan 2019 Update for Brevard County, Florida, xii (Mar. 2019), available at https://www.dropbox.com/s/j9pxd59mt1baf7q/Revised%202019%20Save%20Our%20Indian%20River%20Lagoon%20Project%20Plan%20Update%20032519.pdf?dl=0*.
[141] *Id*.

segregated funds must be made in such a manner that the relation between the program and the revenue source is retained.[142]

Rural Areas of Opportunity

A rural area of opportunity (RAO) is a rural community or region of rural communities that has been adversely affected by an extraordinary economic event, severe or chronic distress, or a natural disaster or that presents a unique economic development opportunity of regional impact.[143] By executive order, the Governor may designate up to three RAOs, establishing each region as a priority assignment for Rural Economic Development Initiative (REDI) agencies. The Governor can waive the criteria, requirements, or any similar provisions of any state economic development incentive for projects in a RAO.[144]

The currently designated RAOs are: [145]

- Northwestern RAO: Calhoun, Franklin, Gadsden, Gulf, Holmes, Jackson, Liberty, Wakulla, and Washington counties, and part of Walton County.
- South Central RAO: DeSoto, Glades, Hardee, Hendry, Highlands, and Okeechobee counties, and the cities of Pahokee, Belle Glade, South Bay (Palm Beach County), and Immokalee (Collier County).
- North Central RAO: Baker, Bradford, Columbia, Dixie, Gilchrist, Hamilton, Jefferson, Lafayette, Levy, Madison, Putnam, Suwannee, Taylor, and Union counties.

Statement of Estimated Regulatory Cost

If a proposed agency rule will have an adverse impact on small business or is likely to increase directly or indirectly regulatory costs in excess of $200,000 aggregated within one year after implementation, an agency must prepare a statement of estimated regulatory costs (SERC).[146] The SERC must include an economic analysis projecting a proposed rule's adverse effect on specified aspects of the state's economy or an increase in regulatory costs. If the SERC shows that the adverse impact or regulatory costs of the proposed rule exceeds $1 million in the aggregate within five years after implementation, then the proposed rule must be submitted to the Legislature for ratification and may not take effect until it is ratified by the Legislature.[147]

Biosolids

Approximately two-thirds of Florida's population is served by around 2,000 domestic wastewater facilities permitted by the DEP.[148] When domestic wastewater is treated, solid,

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[142] Section 20.06(2), F.S.
[143] Section 288.0656(2)(d), F.S.
[144] Section 288.0656(7), F.S.
[145] Department of Economic Opportunity, *Rural Areas of Opportunity*, http://www.floridajobs.org/community-planning-and-development/rural-community-programs/rural-areas-of-opportunity (last visited Dec. 2, 2019).
[146] Section 120.541, F.S.
[147] *Id*.
[148] DEP, *General Facts and Statistics about Wastewater in Florida*, https://floridadep.gov/water/domestic-wastewater/content/general-facts-and-statistics-about-wastewater-florida (last visited Dec. 9, 2019).

semisolid, or liquid residue known as biosolids[149] accumulates in the wastewater treatment plant and must be removed periodically to keep the plant operating properly.[150] Biosolids also include products and treated material from biosolids treatment facilities and septage management facilities regulated by the DEP.[151] The collected residue is high in organic content and contains moderate amounts of nutrients.[152]

The DEP has stated that wastewater treatment facilities produce about 340,000 dry tons of biosolids each year.[153] Biosolids can be disposed of in several ways: transfer to another facility, placement in a landfill, distribution and marketing as fertilizer, incineration, bioenergy, and land application to pasture or agricultural lands.[154] About one-third of the total amount of biosolids produced is used for land application[155] and is subject to regulatory requirements established by the DEP to protect public health and the environment.[156]

Land application is the use of biosolids at a permitted site to provide nutrients or organic matter to the soil, such as agricultural land, golf courses, forests, parks, or reclamation sites. Biosolids are applied in accordance with restrictions based on crop nutrient needs, phosphorus limits in the area, and soil fertility.[157] Biosolids contain macronutrients (such as nitrogen and phosphorus) and micronutrients (such as copper, iron, and manganese) that are utilized by crops. The application of these nutrient-rich biosolids increases the organic content of the soil, fostering more productive plant growth.[158] To prevent odor or the contamination of soil, crops, livestock, and humans, land application sites must meet site management requirements such as site slopes, setbacks, and proximity to groundwater restrictions.[159] There are approximately 140 permitted land application sites in Florida, with waste haulers being the most common site permittees.[160]

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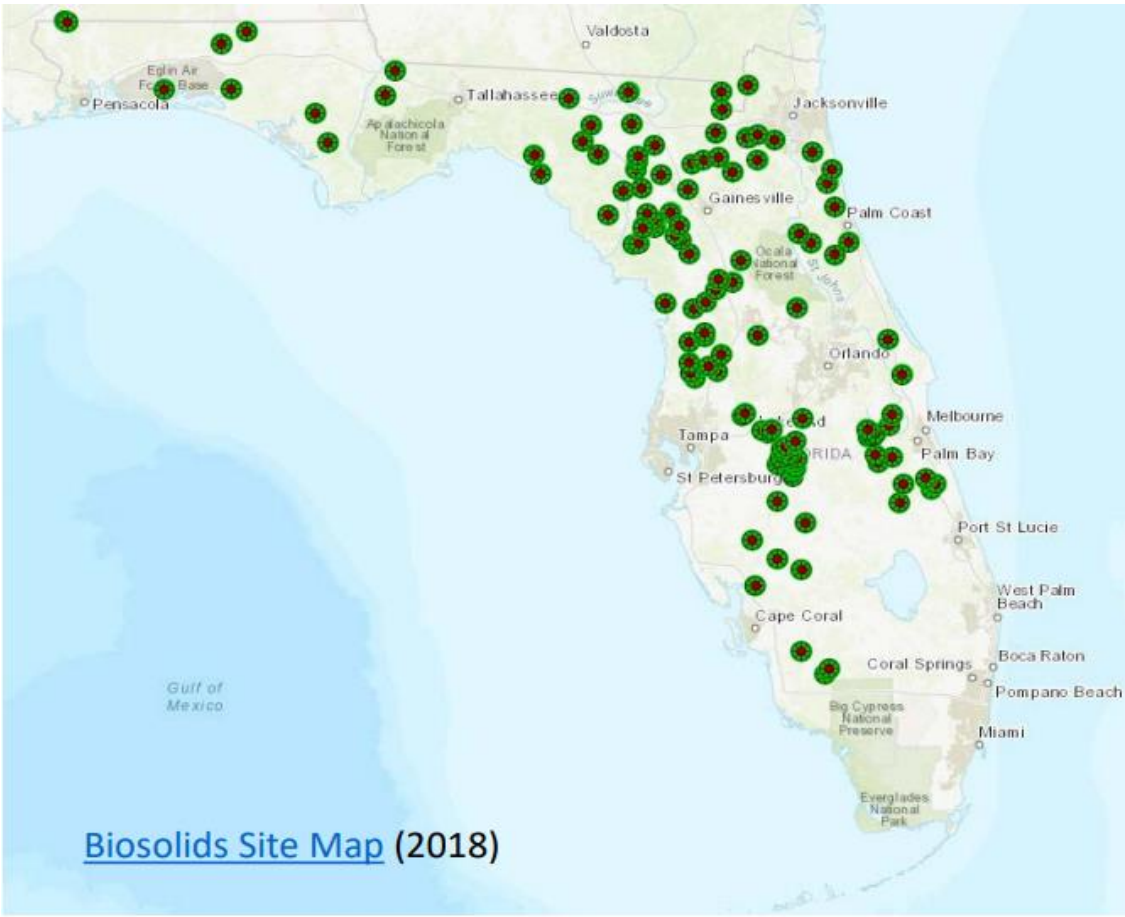
[149] Section 373.4595, F.S. Biosolids are the solid, semisolid, or liquid residue generated during the treatment of domestic wastewater in a domestic wastewater treatment facility and include products and treated material from biosolids treatment facilities and septage management facilities. The term does not include the treated effluent or reclaimed water from a domestic wastewater treatment facility, solids removed from pump stations and lift stations, screenings and grit removed from the preliminary treatment components of domestic wastewater treatment facilities, or ash generated during the incineration of biosolids.
[150] DEP, *Domestic Wastewater Biosolids*, https://floridadep.gov/water/domestic-wastewater/content/domestic-wastewater-biosolids (last visited Dec. 9, 2019).
[151] Fla. Admin. Code R. 62-640.200(6).
[152] *Id*.
[153] DEP, *Presentation to Senate Committee on Environment and Natural Resources*, 40-62 (Nov. 13, 2019) *available at* http://www.flsenate.gov/Committees/Show/EN/MeetingPacket/4733/8393_MeetingPacket_4733.13.19.pdf; DEP Technical Advisory Committee, *Biosolids Use and Regulations in Florida Presentation*, 5 (Sept. 2018), *available at* https://floridadep.gov/sites/default/files/Biosolids101-TAC-090518.pdf (last visited Dec. 9, 2019).
[154] *Id*. at 4.
[155] *Id*. at 5.
[156] Fla. Admin. Code R. 62-640.
[157] DEP Technical Advisory Committee, *Biosolids Use and Regulations in Florida*, 8 (Sept. 2018), *available at* https://floridadep.gov/sites/default/files/Biosolids101-TAC-090518.pdf (last visited Dec. 9, 2019); *see also*, United States EPA, A Plain English Guide to the EPA Part 503 Biosolids Rule, 26 (Sept. 1994), *available at* https://www.epa.gov/sites/production/files/2018-12/documents/plain-english-guide-part503-biosolids-rule.pdf (last visited Dec.. 9, 2019).
[158] *Id.* at 20.
[159] *Id*. at 9.
[160] DEP, *Presentation to Senate Committee on Environment and Natural Resources*, 40-62 (Nov. 13, 2019) *available at* http://www.flsenate.gov/Committees/Show/EN/MeetingPacket/4733/8393_MeetingPacket_4733.13.19.pdf; DEP Technical Advisory Committee, *Biosolids Use and Regulations in Florida Presentation*, 20 (Sept. 2018), *available at*



Regulation of Biosolids by the DEP

The DEP regulates three classes of biosolids for beneficial use.

- Class B - minimum level of treatment;
- Class A - intermediate level of treatment; and
- Class AA - highest level of treatment.[161]

The DEP categorizes the classes based on treatment and quality. Treatment of biosolids must:

- Reduce or completely eliminate pathogens;
- Reduce the attractiveness of the biosolids for pests (such as insects and rodents); and
- Reduce the amount of toxic metals in the biosolids.[162]

https://floridadep.gov/sites/default/files/Biosolids101-TAC-090518.pdf (last visited Dec. 9, 2019). Wastewater treatment facilities commonly contract with waste haulers instead of applying the biosolids themselves.

[161] *Id*. at 6.

[162] *Id*. at 7.

Class AA biosolids can be distributed and marketed as fertilizer. Because they are the highest quality, they are not subject to the same regulations as Class A and Class B biosolids and are exempt from nutrient restrictions.[163] Typically, Class B biosolids are used in land application.[164]

Biosolids are regulated under Rule 62-640 of the Florida Administrative Code. The rules provide minimum requirements, including monitoring and reporting requirements, for the treatment, management, use, and disposal of biosolids. The rules are applicable to wastewater treatment facilities, appliers, and distributors[165] and include permit requirements for both treatment facilities and biosolids application sites.[166]

Each permit application for a biosolids application site must include a site-specific nutrient management plan (NMP) that establishes the specific rates of application and procedures to apply biosolids to land.[167] Biosolids may only be applied to land application sites that are permitted by the DEP and have a valid NMP.[168] Biosolids must be applied at rates established in accordance with the nutrient management plan and may be applied to a land application site only if all concentrations of minerals do not exceed ceiling and cumulative concentrations determined by rule.[169] According to the St. Johns Water Management District, application rates of biosolids are determined by crop nitrogen demand, which can often result in the overapplication of phosphorus to the soil and can increase the risk of nutrient runoff into nearby surface waters.[170]

Once a facility or site is permitted, it is subject to monitoring, record-keeping, reporting, and notification requirements.[171] The requirements are site-specific and can be increased or reduced by the DEP based on the quality or quantity of wastewater or biosolids treated; historical variations in biosolids characteristics; industrial wastewater or sludge contributions to the facility; the use, land application, or disposal of the biosolids; the water quality of surface and ground water and the hydrogeology of the area; wastewater or biosolids treatment processes; and the compliance history of the facility or application site.[172]

State Bans on the Land Application of Biosolids

Section 373.4595, F.S., sets out the statutory guidelines for the Northern Everglades and Estuaries Protection Program. This statute is designed to protect and promote the hydrology of Lake Okeechobee, and the Caloosahatchee and St. Lucie Rivers and their estuaries. As part of those protections, the Legislature banned the disposal of domestic wastewater biosolids within the Lake Okeechobee, Caloosahatchee River, and St. Lucie River watersheds unless the applicant can affirmatively demonstrate that the nutrients in the biosolids will not add to nutrient

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[163] *Id*. at 8.
[164] *Id.* at 6.
[165] Fla. Admin. Code R. 62-640.100.
[166] Fla. Admin. Code R. 62-640.300.
[167] Fla. Admin. Code R. 62-640.500.
[168] *Id*.
[169] Fla. Admin. Code R. 62-640.700.
[170] Victoria R. Hoge, Environmental Scientist IV, St. Johns River Water Management District, *Developing a Biosolids Database for Watershed Modeling Efforts*, *abstract available at* http://archives.waterinstitute.ufl.edu/symposium2018/abstract_detail.asp?AssignmentID=1719 (last visited Mar. 8, 2019).
[171] Fla. Admin. Code R. 62-640.650.
[172] *Id*.

loadings in the watershed.[173] The prohibition against land application in these watersheds does not apply to Class AA biosolids that are distributed as fertilizer products in accordance with Rule 62-640.850 of the Florida Administrative Code.[174]

The land application of Class A and Class B biosolids is also prohibited within priority focus areas in effect for Outstanding Florida Springs if the land application is not in accordance with a NMP that has been approved by the DEP.[175] The NMP must establish the rate at which all biosolids, soil amendments, and nutrient sources at the land application site can be applied to the land for crop production while minimizing the amount of pollutants and nutrients discharged into groundwater and waters of the states.[176]

Local Regulation of Biosolids

The Indian River County Code addresses land application of biosolids by providing criteria for designated setbacks, reporting requirements, and required approval. In July 2018, the Indian River County Commission voted for a six-month moratorium on the land application of Class B biosolids on all properties within the unincorporated areas of the county.[177] The ordinance also directs the County Administrator to coordinate with the DEP on a study to report the findings and recommendations concerning Class B biosolids land application activities and potential adverse effects.[178] The County Commission voted in January 2019 to extend the moratorium for an additional six months.[179]

The City Council of Fellsmere adopted a similar moratorium, Ordinance 2018-06, in August 2018, authorizing a temporary moratorium for 180 days or until a comprehensive review of the impact on the city's ecosystem is completed.[180] In January 2019, the ordinance was extended for an additional 180 days.[181]

The Treasure Coast Regional Planning Council held a Regional Biosolids Symposium in June 2018, where regional representatives and stakeholders discussed biosolids and alternative techniques for disposal.[182] At its meeting in July, the Treasure Coast Regional Planning Council adopted a resolution encouraging state and local governments to prioritize the reduction and eventual elimination of the land application of human wastewater biosolids.[183] It also encouraged

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[173] Chapter 2016-1, Laws of Florida; *see* s. 373.4595, F.S.
[174] *Id*.
[175] Section 373.811(4), F.S.
[176] *Id*.
[177] Indian River County Commission Ordinance 18-2020 (Jul. 17, 2018), *available at* http://ircgov.granicus.com/player/clip/183?view_id=1&meta_id=64650 (last visited Dec. 9, 2019).
[178] *Id*.
[179] Indian River County Commission Ordinance 18-2642 (Jan. 14, 2019), *available at* http://ircgov.granicus.com/player/clip/204?view_id=1&meta_id=77302 (last visited Dec. 9, 2019).
[180] Fellsmere City Council Meeting, *Agenda* (Aug. 16, 2018), *available at* https://www.cityoffellsmere.org/sites/default/files/fileattachments/city_council/meeting/8301/co20180816agenda.pdf.
[181] Fellsmere City Council Meeting, *Agenda* (Feb. 7, 2019), *available at* https://www.cityoffellsmere.org/sites/default/files/fileattachments/city_council/meeting/14391/co20190221agenda.pdf.
[182] Treasure Coast Regional Planning Council Regional Biosolids Symposium, *Charting the Future of Biosolids Management Executive Summary* (Jun. 18, 2018), *available at* http://www.tcrpc.org/announcements/Biosolids/summit%20summary.pdf.
[183] Treasure Coast Regional Planning Council Resolution 18-03 (Jul. 20, 2018), *available at* http://www.flregionalcouncils.org/wp-content/uploads/2019/01/Treasure-Coast-Resolution-No.-18-03.pdf.

the state to establish a Pilot Projects Program to incentivize local utilities to implement new wastewater treatment technologies that would allow more efficient use of biosolids.[184]

Rule Development

In 2018, the DEP created a Biosolids Technical Advisory Committee (TAC) to establish an understanding of potential nutrient impacts of the land application of biosolids, evaluate current management practices, and explore opportunities to better protect Florida's water resources. The TAC members represent various stakeholders, including environmental and agricultural industry experts, large and small utilities, waste haulers, consultants, and academics.[185]

The TAC convened on four occasions from September 2018 to January 2019 and discussed the current options for biosolids management in the state, ways to manage biosolids to improve the protection of water resources, and research needs to build upon and improve biosolids management.[186]

Based on recommendations of the TAC and public input, the DEP published a draft rule on October 29, 2019.[187] Key proposals in the draft rule include:

- A prohibition on the land application of biosolids where the seasonal high water table is within 15 cm of the soil surface or 15 cm of the intended depth of biosolids placement. The existing rule requires a soil depth of two feet between the depth of biosolids placement and the water table level at the time the Class A or Class B biosolids are applied to the soil.
- A requirement that land application must be done in accordance with applicable BMAPs.
- Definitions for "capacity index," "percent water extractable phosphorus," and "seasonal high water table."
- More stringent requirements must be provided in the Nutrient Management Plan.
- All biosolids sites must enroll in a DACS BMP Program.
- All biosolids applications are considered projects of heightened public concern/interest,[188] meaning that a permit applicant must publish notice of their application one time only within fourteen days after a complete application is filed.[189]
- Increased monitoring for surface and groundwater.
- The requirement measures to be taken to prevent leaching of nutrients for the storage of biosolids.
- Existing facilities must be in compliance with the new rule within three years of the adoption date.

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[184] *Id*.
[185] The seven members of TAC included two academic representatives from the University of Florida, two representatives of small and large utilities, and one representative each for environmental interests, agricultural interests, and waste haulers.
[186] DEP, *DEP Biosolids Technical Advisory Committee*, https://floridadep.gov/water/domestic-wastewater/content/dep-biosolids-technical-advisory-committee (last visited Mar. 6, 2019).
[187] Florida Department of State, Notice of Proposed Rule: Rule No.: 62-640.100, 62-640.200, 62-640.210, 62-640.300, 62-640.500, 62-640.600, 62-640.650, 62-640.700, 62-640.800, 62-640.850, 62-640.880 (Oct. 29, 2019), https://www.flrules.org/gateway/View_Notice.asp?id=22546212 (last visited Dec. 5, 2019).
[188] Note: the draft rule uses the phrase "public interest" but the rule crossreferenced in the draft rule uses the phrase "public concern."
[189] Fla. Admin. Code R. 62-110.106(6).

This biosolids rule required a SERC that exceeds the threshold to trigger the requirement for legislative ratification.[190] The SERC makes the following statements:

> The revised rule may significantly reduce biosolids land application rates (the amount applied per acre on an annual basis) by an estimated 75 percent. In 2018, just under 90,000 dry tons of Class B biosolids were applied to biosolids land application sites with about 84,000 acres of the currently permitted 100,000 acres in Florida. Reduced land application rates would necessitate the permitting about four to ten times more land to accommodate the current quantity of land applied Class B biosolids.
>
> As haulers have already permitted land application sites closer to the domestic wastewater facilities that generate biosolids, any additional sites are expected to be at greater distances from these facilities. This could result in longer hauling distances. Additionally, some existing sites may cease land application completely, either because the site may not be suitable for land application or because the landowner may not want to subject their property to ground water or surface water quality monitoring. The additional site monitoring requirements for ground water and surface water will also increase operational costs, so some biosolids site permittees, especially for smaller sites, may choose to cease operations. Under the proposed rule, some portion of currently land-applied Class B biosolids are expected to then be disposed of in landfills or be converted to Class AA biosolids. The reduction in land application rates, loss of land application sites, and shift away from land application could result in:
> - Loss of biosolids hauling contracts.
> - Loss of jobs with biosolids hauling companies.
> - Loss of grass production and income for landowners.
> - Increased operational expenses for biosolids haulers, and;
> - Loss of cost savings and production for cattle ranchers and hay farmers.
>
> Under the revised rule, biosolids land application rates will drop by an average of 75 percent. Some farmers indicate an economic value of about $60 per acre in fertilizer savings through biosolids land application. In 2018, approximately 84,000 acres were utilized for the land application of biosolids, which would represent a current fertilizer cost savings of approximately $5,040,000. This would be a loss of $3,780,000 in cost savings annually if 75 percent less biosolids can be applied per acre.[191]

The SERC includes the following statewide estimates:
- Capital costs for new permitting and land application sites of $10 million;

[190] DEP, *Statement of Estimated Regulatory Costs (SERC), available at* https://content.govdelivery.com/attachments/FLDEP/2019/10/29/file_attachments/1313532/62-640%20SERC.pdf .
[191] *Id*.

- Recurring costs for additional sites and transportation of wet biosolids of at least $31 million; and
- Additional monitoring costs of $1 million.[192]

The DEP expects more biosolids to be converted to class AA biosolids/fertilizer. They estimate the capital cost for additional class AA biosolids projects will be between $300-$400 million.[193] The DEP is currently reviewing lower cost regulatory alternatives that have been submitted.[194] The next step will be a hearing before the Environmental Regulation Commission and adoption of the rule. Following rule adoption, legislative ratification is required.[195]

III. Effect of Proposed Changes:

The bill provides a series of whereas clauses related to water quality issues the state is seeking to resolve.

Section 1 titles the bill the "Clean Waterways Act."

Section 2 takes the following steps toward shifting regulation of onsite sewage treatment and disposal systems (OSTDSs) from the Department of Health (DOH) to the Department of Environmental Protection (DEP):

- By July 1, 2020, the DOH must provide a report to the Governor and the Legislature detailing the following information regarding OSTDSs:
  - The average number of permits issued each year;
  - The number of department employees conducting work on or related to the program each year; and
  - The program's costs and expenditures, including, but not limited to, salaries and benefits, equipment costs, and contracting costs.
- By December 31, 2020, the DOH and the DEP must submit recommendations to the Governor and the Legislature regarding the transfer of the Onsite Sewage Program from the DOH to the DEP. The recommendations must address all aspects of the transfer, including the continued role of the county health departments in the permitting, inspection, data management, and tracking of onsite sewage treatment and disposal systems under the direction of the DEP.
- By June 30, 2021, the DOH and the DEP must enter into an interagency agreement that must address all agency cooperation for a period not less than five years after the transfer, including:
  - The continued role of the county health departments in the permitting, inspection, data management, and tracking of OSTDSs under the direction of the DEP.
  - The appropriate proportionate number of administrative positions, and their related funding levels and sources and assigned property, to be transferred from the DOH to the DEP.

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[192] *Id*.
[193] *Id*.
[194] Email from Justin Wolfe, General Counsel, DEP, RE: Biosolids Rule (Dec. 2. 2019)(on file with the Environment and Natural Resources Committee).
[195] Section 120.541(3), F.S.

  - The development of a recommended plan to address the transfer or shared use of facilities used or owned by the DOH.
  - Any operating budget adjustments that are necessary to implement the requirements of the bill. The bill details how operating budget adjustments will be made. The appropriate substantive committees of the Senate and the House of Representatives will be notified of the proposed revisions to ensure their consistency with legislative policy and intent.
- Effective July 1, 2021, the regulation of OSTDSs relating to the Onsite Sewage Program in the DOH is transferred by a type two transfer to the DEP. Transferred employees will retain their leave.

Section 3 amends s. 373.4131, F.S., relating to statewide environmental resource permitting (ERPs). The bill requires the DEP to train its staff on coordinating field inspections of stormwater structural controls, such as stormwater retention or detention ponds.

By January 1, 2021:
- The DEP and the water management districts (WMDs) must initiate rulemaking to update the stormwater design and operation regulations using the most recent scientific information available; and
- The DEP must evaluate inspection data relating to compliance by those entities that self-certify stormwater ERPs and must provide the Legislature with recommendations for improvements to the self-certification program.

Note: More stringent stormwater rules would likely exceed the regulatory cost threshold of $1 million in the aggregate within five years after implementation; therefore, the proposed rule may have to be submitted to the Legislature for ratification and may not take effect until it is ratified by the Legislature.[196]

Section 4 amends s. 381.0065, F.S., relating to OSDTS regulation, effective July 1, 2021, to coincide with the DEP's role as the regulating entity for OSTDSs.

The bill requires the DEP to adopt rules to locate OSTDSs, including establishing setback distances, to prevent groundwater contamination and surface water contamination and to preserve the public health. The rulemaking process must be completed by July 1, 2022. The rules must consider conventional and advanced OSTDS designs, impaired or degraded water bodies, wastewater and drinking water infrastructure, potable water sources, nonpotable wells, stormwater infrastructure, the OSTDS remediation plans developed as part of the basin management action plans (BMAPs), nutrient pollution, and the recommendations of the OSTDS technical advisory committee created by the bill.

Upon adoption of these rules, the rules will supersede existing statutory revisions relating to setbacks. The DEP must report the date of adoption of the rules to the Division of Law Revision for incorporation into the statutes.

The bill deletes language that is inconsistent with these provisions.

[196] *Id.*

Note: New OSTDS rules would likely exceed the regulatory cost threshold of $1 million in the aggregate within five years after implementation; therefore, the proposed rule may have to be submitted to the Legislature for ratification and may not take effect until it is ratified by the Legislature.[197]

Section 5 creates s. 381.00652, F.S., to create an OSTDS technical advisory committee (TAC) within the DEP.

The responsibilities of the TAC are to:

- Provide recommendations to increase the availability in the marketplace of nutrient-removing OSTDSs, including systems that are cost-effective, low-maintenance, and reliable.
- Consider and recommend regulatory options, such as fast-track approval, prequalification, or expedited permitting, to facilitate the introduction and use of nutrient-removing OSTDSs that have been reviewed and approved by a national agency or organization, such as the American National Standards Institute 245 systems approved by the National Sanitation Foundation International (this may not be the correct title, see Related Issues).
- Provide recommendations for appropriate setback distances for OSTDSs from surface water, groundwater, and wells.

The DEP must use existing and available resources to administer and support the activities of the TAC.

By August 1, 2021, the DEP, in consultation with the DOH, will appoint nine members to the TAC:

- A professional engineer.
- A septic tank contractor.
- A representative from the home building industry.
- A representative from the real estate industry.
- A representative from the OSTDS industry.
- A representative from local government.
- Two representatives from the environmental community.
- A representative of the scientific and technical community who has substantial expertise in the areas of the fate and transport of water pollutants, toxicology, epidemiology, geology, biology, or environmental sciences.

Members will serve without compensation and are not entitled to reimbursement for per diem or travel expenses.

By January 1, 2022, the TAC will submit its recommendations to the Governor and the Legislature.

The TAC is repealed on August 15, 2022.

Section 6 repeals the DOH's technical review and advisory panel, effective July 1, 2021.

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[197] *Id.*

Section 7 amends s. 403.061, F.S., which sets out the DEP's powers and duties to adopt rules to reasonably limit, reduce, and eliminate leaks, seepages, or inputs into the underground pipes of wastewater collection systems.

The bill authorizes the DEP to require public utilities or their affiliated companies that hold or are seeking a wastewater discharge permit to file reports and other data regarding transactions or allocations of common costs among the utility or entity and such affiliated companies. The DEP may require such reports or other data necessary to ensure a permitted entity is reporting expenditures on pollution mitigation and prevention, including, but not limited to, the prevention of sanitary sewer overflows, collection and transmission system pipe leakages, and inflow and infiltration. The DEP is required to adopt rules to implement this subsection.

Note: Such rules would likely exceed the regulatory cost threshold of $1 million in the aggregate within five years after implementation; therefore, the proposed rule may have to be submitted to the Legislature for ratification and may not take effect until it is ratified by the Legislature.[198]

Section 8 creates s. 403.0616, F.S., to establish a real-time water quality monitoring program within the DEP, subject to appropriation. The program's purpose is to assist in the restoration, preservation, and enhancement of impaired waterbodies and coastal resources. The DEP is encouraged to form public-private partnerships with established scientific entities with existing, proven real-time water quality monitoring equipment and experience in deploying such equipment.

Section 9 amends s. 403.067(7), F.S., relating to basin management action plans (BMAPs), to set out parameters for an OSTDS remediation plan and a wastewater treatment plan. It prohibits the DEP from requiring a higher cost option for a wastewater project within a BMAP if it achieves the same nutrient load reduction as a lower-cost option. It also makes revisions relating to agricultural best management practices (BMPs).

If the DEP identifies domestic wastewater facilities or OSTDSs as contributors of at least 20 percent of point source or nonpoint source nutrient pollution or if the DEP determines that remediation is necessary to achieve the total maximum daily load (TMDL), the BMAP for a nutrient TMDL must create a wastewater treatment plan and/or an OSTDS remediation plan.

A wastewater treatment plan must address domestic wastewater and be developed by each local government in cooperation with the DEP, the WMD, and the public and private domestic wastewater facilities within the jurisdiction of the local government. The wastewater treatment plan must:

- Provide for construction, expansion, or upgrades necessary to achieve the TMDL requirements applicable to the domestic wastewater facility.
- Include: the permitted capacity in gallons per day for the domestic wastewater facility; the average nutrient concentration and the estimated average nutrient load of the domestic wastewater; a timeline of the dates by which the construction of any facility improvements

[198] *Id.*

will begin and be completed and the date by which operations of the improved facility will begin; the estimated cost of the improvements; and the identity of responsible parties.

The wastewater treatment plan must be adopted as part of the BMAP no later than July 1, 2025. A local government that does not have a domestic wastewater treatment facility in its jurisdiction is not required to develop a wastewater treatment plan unless there is a demonstrated need to establish a domestic wastewater treatment facility within its jurisdiction to improve water quality necessary to achieve a TMDL.

An OSTDS remediation plan must be developed by each local government in cooperation with the DEP, the Department of Health, the WMDs, and public and private domestic wastewater facilities. The OSTDS remediation plan must identify cost-effective and financially feasible projects necessary to achieve the nutrient load reductions required for OSTDSs. To identify cost-effective and financially feasible projects for remediation of OSTDSs, the local government shall:

- Include an inventory of OSTDSs based on the best information available;
- Identify OSTDSs that would be eliminated through connection to existing or future central wastewater infrastructure, that would be replaced with or upgraded to advanced nutrient-removal systems, or that would remain on conventional OSTDSs;
- Estimate the costs of potential OSTDS connections, upgrades, or replacements; and
- Identify deadlines and interim milestones for the planning, design, and construction of projects.

The DEP must adopt the OSTDS remediation plan as part of the BMAP no later than July 1, 2025, or as required by existing law for Outstanding Florida Springs.

The bill requires the Department of Agriculture and Consumer Services (DACS) to collect fertilization and nutrient records from each agricultural producer enrolled in BMPs that address nutrients. These records must include rates of application in pounds per acre; application method; fertilizer type or source; acres covered; formulation of the applied fertilizer, including nitrogen and phosphorus content; location; grade; and dates applied. By March 1 of each year, the DACS must provide the previous year's records to the DEP.

At least every two years, the DACS must perform on-site inspections of each agricultural producer that enrolls in a BMP to ensure that such practice is being properly implemented.

The bill authorizes the DACS, the University of Florida Institute of Food and Agricultural Sciences, and other state universities and Florida College System institutions with agricultural research programs to annually develop research plans and legislative budget requests to:

- Evaluate and suggest enhancements to the existing adopted BMPs to reduce nutrients;
- Develop new BMPs that, if proven effective, the DACS may adopt by rule; and
- Develop agricultural nutrient reduction projects that willing participants could implement on a site-specific, cooperative basis, in addition to BMPs. The DEP may consider these projects for inclusion in a BMAP. These nutrient reduction projects must reduce the nutrient impacts from agricultural operations on water quality when evaluated with the projects and management strategies currently included in the BMAP.

To be considered for funding, the University of Florida Institute of Food and Agricultural Sciences and other state universities and Florida College System institutions that have agricultural research programs must submit such plans to the DEP and the DACS, by August 1 of each year.

Section 10 creates s. 403.0673, F.S., a wastewater grant program within the DEP. Subject to appropriation, the DEP may provide grants for projects that will reduce excess nutrient pollution for:

- Projects to retrofit OSTDSs to upgrade them to nutrient-reducing OSTDSs.
- Projects to construct, upgrade, or expand facilities to provide advanced waste treatment.
- Projects to connect OSTDSs to central sewer facilities.

In allocating such funds, priority must be given to projects that subsidize the connection of OSTDSs to a wastewater treatment plant. In determining priorities, the DEP must consider:

- The estimated reduction in nutrient load per project;
- Project readiness;
- Cost-effectiveness of the project;
- The overall environmental benefit of a project;
- The location of a project within the plan area;
- The availability of local matching funds; and
- Projected water savings or quantity improvements associated with a project.

Each grant must require a minimum of a 50 percent local match of funds. However, the DEP may waive, in whole or in part, this consideration of the local contribution for proposed projects within an area designated as a rural area of opportunity. The DEP and the WMDs will coordinate to identify grant recipients in each district.

Beginning January 1, 2021, and each January 1 thereafter, the DEP must submit a report regarding the projects funded by the grant program to the Governor and the Legislature.

Section 11 creates s. 403.0855, F.S., on biosolids management. The bill provides legislative findings, requires the DEP to adopt rules for biosolids management, and exempts such rules from legislative ratification if they are adopted prior to the 2021 legislative session.

Section 12 amends s. 403.086, F.S., relating to sewage disposal facilities.

The bill prohibits facilities for sanitary sewage disposal from disposing of waste into Indian River Lagoon or its tributaries without providing for advanced waste treatment, beginning July 1, 2025.

The bill requires facilities for sanitary sewage disposal to have a power outage contingency plan that mitigates the impacts of power outages on the utility's collection system and pump stations.

All facilities for sanitary sewage that control a collection or transmission system of pipes and pumps to collect and transmit wastewater from domestic or industrial sources to the facility must

take steps to prevent sanitary sewer overflows or underground pipe leaks and ensure that collected waste water reaches the facility for appropriate treatment. Facilities must use inflow and infiltration studies and leakage surveys to develop pipe assessment, repair, and replacement action plans that comply with the DEP rule to limit, reduce, and eliminate leaks, seepages, or inputs into wastewater treatment systems' underground pipes. These facility action plans must be reported to the DEP. The facility report must include information regarding the annual expenditures dedicated to the inflow and infiltration studies and replacement action plans required herein, as well as expenditures dedicated to pipe assessment, repair, and replacement.

The DEP must adopt rules regarding the implementation of inflow and infiltration studies and leakage surveys.

Substantial compliance with the action plan described above is evidence in mitigation for the purposes of assessing certain penalties.

Note: Such rules would likely exceed the regulatory cost threshold of $1 million in the aggregate within five years after implementation; therefore, the proposed rule may have to be submitted to the Legislature for ratification and may not take effect until it is ratified by the Legislature.[199]

Section 13 amends s. 403.087, F.S., to require the DEP to issue operating permits for up to 10 years (rather than up to five) for facilities regulated under the National Pollutant Discharge Elimination System Program if the facility is meeting the stated goals in the action plan relating to the prevention of sanitary sewer overflows or underground pipe leaks.

Section 14 amends s. 403.088, F.S., relating to water pollution operation permits. The bill requires the permit to include a deliberate, proactive approach to investigating or surveying a significant percentage of the wastewater collection system throughout the duration of the permit to determine pipe integrity, which must be accomplished in an economically feasible manner.

The permittee must submit an annual report to the DEP, which details facility revenues and expenditures in a manner prescribed by the DEP rule. The report must detail any deviation from annual expenditures related to inflow and infiltration studies; model plans for pipe assessment, repair, and replacement; and pipe assessment, repair, and replacement.

Substantial compliance with the requirements above is evidence in mitigation for the purposes of assessing penalties.

No later than March 1 of each year, the DEP must submit a report to the Governor and the Legislature which identifies all wastewater utilities that experienced a sanitary sewer overflow in the preceding calendar year. The report must identify the utility name, operator, number of overflows, and total quantity of discharge released. The DEP will include with this report the annual report required of the utility relating to sanitary sewer overflows and underground pipe leaks for each utility that experienced an overflow.

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[199] *Id.*

Note: Rules required to implement this section would likely exceed the regulatory cost threshold of $1 million in the aggregate within five years after implementation; therefore, the proposed rule may have to be submitted to the Legislature for ratification and may not take effect until it is ratified by the Legislature.[200]

Section 15 amends s. 403.0891, F.S., to require the DEP and the Department of Economic Opportunity to develop model ordinances that target nutrient reduction practices and use green infrastructure.

Section 16 amends s. 403.121, F.S., to add "failure to survey an adequate portion of the wastewater collection system and take steps to reduce sanitary sewer overflows, pipe leaks, and inflow and infiltration" to the DEP's penalty schedule. Such a violation will result in a $2,000 penalty.

Section 17 amends s. 403.885, F.S., relating to the Water Projects Grant Program, to require the DEP to prioritize grant proposals submitted by a domestic wastewater utility in accordance with the Clean Water Revolving Loan Fund, which implements the requirements of the bill relating to the prevention of sanitary sewer overflows and underground pipe leaks.

Section 18 provides a statement that this act fulfills an important state interest.

Sections 19-43 make conforming changes.

Section 44 directs the Division of Law Revision to replace certain language in the bill with the date the DEP adopts certain rules on OSTDSs as required by the bill.

Section 45 states that except as otherwise expressly provided in the bill, the act will take effect July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The county/municipality mandates provision of Art. VII, s. 18 of the Florida Constitution may apply to this bill because it requires local governments to develop OSTDS remediation plans and wastewater treatment plans. If the bill does qualify as a mandate, the law must fulfill an important state interest and final passage must be approved by two-thirds of the membership of each house of the Legislature.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

[200] *Id.*

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The following discussion identifies aspects of the bill that may cause a negative fiscal impact because they implement more stringent environmental requirements. However, it is worth noting that there are costs associated with failing to address pollution issues. Cleanup costs, human health impacts, ecosystem deterioration, loss of tourism, and decreased real estate values are some key examples of possible costs associated with pollution.

Updating stormwater rules and adopting new OSTDS and wastewater rules would likely cause a negative fiscal impact to the private sector. However, if that impact exceeds $1 million over five years, the rules will require legislative ratification, which means they will not go into effect without additional legislation.

The additional requirements of OSTDS remediation plans and wastewater treatment plans may cause a negative fiscal impact to the private sector entities within BMAPs that must address OSTDS or wastewater pollution to meet the TMDL.

Private wastewater utilities that discharge into Indian River Lagoon may have costs associated to conversion to advanced waste treatment.

Utilities that fail to survey an adequate portion of the wastewater collection system and take steps to reduce sanitary sewer overflows, pipe leaks, and inflow and infiltration will be subject to a $2,000 fine for each violation.

C. Government Sector Impact:

The DEP will incur additional costs in developing multiple new regulatory programs, updating BMAPs, and developing, submitting, and reviewing new reports.

The additional requirements of OSTDS remediation plans and wastewater treatment plans may cause a negative fiscal impact to local governments that must address OSTDS or wastewater pollution to meet their TMDL. However, there is flexibility in how these

plans are developed, which makes these costs speculative and subject to the development of each specific OSTDS remediation plan or wastewater treatment plan.

The implementation of a real-time water quality monitoring program will have a negative fiscal impact on the DEP, but this provision is subject to appropriation.

The wastewater grant program would have a positive fiscal impact on local governments, but this provision is subject to appropriation. The DEP will likely incur some costs associated with the development of this grant program and the report to the Governor and the Legislature. The DEP can absorb these costs within existing resources.

Public wastewater utilities that discharge into Indian River Lagoon may have costs associated with conversion to advanced waste treatment. However, the local governments in the region are spending substantial amounts on pollution cleanup. Lessening the pollutants in this waterbody may have a positive fiscal impact in the long term.

The impact of exempting the biosolids rule from ratification is speculative at this time because the rule has not been adopted. There is likely a negative fiscal impact to both the public and private sectors to meet the requirements of the new rule. There may be a long-term positive fiscal impact as a result of reduced cleanup costs and reduced damage to the natural systems associated with more rigorous land application requirements.

VI. Technical Deficiencies:

The term "National Sanitation Foundation International" is not the correct title of the organization. The organization changed its name from the National Sanitation Foundation to NSF International in 1990. The staff recommendation would be to replace "National Sanitation Foundation" with "NSF."

VII. Related Issues:

There is no definition for advanced OSTDS or nutrient-reducing OSTDS. While the DEP will have ample rule authority to create definitions, if these terms are intended to mean the same category of OSTDSs, a single term should probably be used in statute to avoid the implication that they are two different things.

Springs BMAPs will have the DEP in charge of the OSTDS remediation plan, but the general BMAP statute will give local governments the primary responsibility for the OSTDS remediation plan. To avoid confusion, one recommendation would be to amend the springs provision to be consistent with the general BMAP requirements.

In section 17 of the bill, it is unclear whether the utilities at issue get priority funding for the Water Projects Grant Program or grants under the State Revolving Loan fund program under s. 403.1835, F.S., or both.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 153.54, 153.73, 163.3180, 180.03, 311.105, 327.46, 373.250, 373.414, 373.4131, 373.705, 373.707, 373.709, 376.307, 380.0552, 381.006, 381.0061, 381.0064, 381.0065, 381.00651, 381.00652, 403.061, 403.067, 403.086, 403.08601, 403.087, 403.0871, 403.0872, 403.088, 403.0891, 403.121, 403.1835, 403.707, 403.861, 403.885, 489.551, and 590.02.

This bill creates the following sections of the Florida Statutes: 381.00652, 403.0616, 403.0673, and 403.0855.

This bill repeals section 381.0068 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Community Affairs on December 9, 2019:
The committee substitute:

- Effectuates a type two transfer of septic system oversight from the DOH to DEP rather than just requiring a report;
- Requires DEP to develop rules relating to the location of septic systems;
- Revises language related to DEP updating its stormwater rules;
- Requires DEP to make recommendations to the Legislature on self-certification of stormwater permits rather than prohibiting the use of self-certification in BMAP areas;
- Leaves the BMAP process for Outstanding Florida Springs while revising the requirement for OSTDS remediation plans and adding a requirement for wastewater treatment plans in the general BMAP statute;
- Requires that these new plans be incorporated into the BMAP by 2025;
- Removes provisions relating to Florida-Friendly Fertilizer Ordinances;
- Adds rural areas of opportunities to the possible grant recipients for the wastewater grant created by the bill;
- Removes provisions that would make agricultural BMPs enforceable earlier and in more impaired waterbodies;
- Adds a requirement that DACS conduct onsite inspections of BMPs at least every two years;
- Adds a requirement that DACS collect and remit certain records relating to agricultural BMPs to DEP;
- Adds language authorizing DACS and certain institutions of higher education to submit budget requests for certain activities relating to the improvement of agricultural BMPs;
- Removes the provision requiring additional notification and penalties related to sanitary sewer overflows and replaces it with numerous requirements relating to the prevention of sanitary sewer overflows, inflow and infiltration, and leakage;

- Removes provisions increasing penalties but adds "failure to survey an adequate portion of the wastewater collection system and take steps to reduce sanitary sewer overflows, pipe leaks, and inflow and infiltration" to the penalty schedule;
- Deletes the DOH OSTDS technical advisory committee and creates a DEP OSTDS technical advisory committee that will expire on August 15, 2022, after making recommendations to the Governor and Legislature regarding the regulation of OSTDSs;
- Requires DEP to adopt rules relating to biosolids management and exempts such rules from legislative ratification if they are adopted before the 2021 legislative session.
- Directs the Division of Law Revision to incorporate the date of rule adoption into the statutes.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
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Appropriations Subcommittee on Agriculture, Environment, and General Government (Mayfield) recommended the following:

Senate Amendment (with title amendment)

Delete lines 506 - 2542
and insert:
consider conventional and enhanced nutrient-reducing onsite sewage treatment and disposal system designs, impaired or degraded water bodies, domestic wastewater and drinking water infrastructure, potable water sources, nonpotable wells, stormwater infrastructure, the onsite sewage treatment and disposal system remediation plans developed pursuant to s.

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403.067(7)(a)9.b., nutrient pollution, and the recommendations of the onsite sewage treatment and disposal systems technical advisory committee established pursuant to s. 381.00652.

(f) ~~(e)~~ Onsite sewage treatment and disposal systems that are permitted before adoption of the rules identified in paragraph (e) may ~~must~~ not be placed closer than:

1. Seventy-five feet from a private potable well.

2. Two hundred feet from a public potable well serving a residential or nonresidential establishment having a total sewage flow of greater than 2,000 gallons per day.

3. One hundred feet from a public potable well serving a residential or nonresidential establishment having a total sewage flow of less than or equal to 2,000 gallons per day.

4. Fifty feet from any nonpotable well.

5. Ten feet from any storm sewer pipe, to the maximum extent possible, but in no instance shall the setback be less than 5 feet.

6. Seventy-five feet from the mean high-water line of a tidally influenced surface water body.

7. Seventy-five feet from the mean annual flood line of a permanent nontidal surface water body.

8. Fifteen feet from the design high-water line of retention areas, detention areas, or swales designed to contain standing or flowing water for less than 72 hours after a rainfall or the design high-water level of normally dry drainage ditches or normally dry individual lot stormwater retention areas.

~~(f) Except as provided under paragraphs (e) and (t), no limitations shall be imposed by rule, relating to the distance~~

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40 ~~between an onsite disposal system and any area that either~~
41 ~~permanently or temporarily has visible surface water.~~
42 (g) All provisions of this section and rules adopted under
43 this section relating to soil condition, water table elevation,
44 distance, and other setback requirements must be equally applied
45 to all lots, with the following exceptions:
46 1. Any residential lot that was platted and recorded on or
47 after January 1, 1972, or that is part of a residential
48 subdivision that was approved by the appropriate permitting
49 agency on or after January 1, 1972, and that was eligible for an
50 onsite sewage treatment and disposal system construction permit
51 on the date of such platting and recording or approval shall be
52 eligible for an onsite sewage treatment and disposal system
53 construction permit, regardless of when the application for a
54 permit is made. If rules in effect at the time the permit
55 application is filed cannot be met, residential lots platted and
56 recorded or approved on or after January 1, 1972, shall, to the
57 maximum extent possible, comply with the rules in effect at the
58 time the permit application is filed. At a minimum, however,
59 those residential lots platted and recorded or approved on or
60 after January 1, 1972, but before January 1, 1983, shall comply
61 with those rules in effect on January 1, 1983, and those
62 residential lots platted and recorded or approved on or after
63 January 1, 1983, shall comply with those rules in effect at the
64 time of such platting and recording or approval. In determining
65 the maximum extent of compliance with current rules that is
66 possible, the department shall allow structures and
67 appurtenances thereto which were authorized at the time such
68 lots were platted and recorded or approved.

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69 2. Lots platted before 1972 are subject to a 50-foot
70 minimum surface water setback and are not subject to lot size
71 requirements. The projected daily flow for onsite sewage
72 treatment and disposal systems for lots platted before 1972 may
73 not exceed:
74 a. Two thousand five hundred gallons per acre per day for
75 lots served by public water systems as defined in s. 403.852.
76 b. One thousand five hundred gallons per acre per day for
77 lots served by water systems regulated under s. 381.0062.
78 (h)1. The department may grant variances in hardship cases
79 which may be less restrictive than ~~the provisions~~ specified in
80 this section. If a variance is granted and the onsite sewage
81 treatment and disposal system construction permit has been
82 issued, the variance may be transferred with the system
83 construction permit, if the transferee files, within 60 days
84 after the transfer of ownership, an amended construction permit
85 application providing all corrected information and proof of
86 ownership of the property and if the same variance would have
87 been required for the new owner of the property as was
88 originally granted to the original applicant for the variance.
89 There is no fee associated with the processing of this
90 supplemental information. A variance may not be granted under
91 this section until the department is satisfied that:
92 a. The hardship was not caused intentionally by the action
93 of the applicant;
94 b. No reasonable alternative, taking into consideration
95 factors such as cost, exists for the treatment of the sewage;
96 and
97 c. The discharge from the onsite sewage treatment and

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98 disposal system will not adversely affect the health of the
99 applicant or the public or significantly degrade the groundwater
100 or surface waters.
101
102 Where soil conditions, water table elevation, and setback
103 provisions are determined by the department to be satisfactory,
104 special consideration must be given to those lots platted before
105 1972.
106 2. The department shall appoint and staff a variance review
107 and advisory committee, which shall meet monthly to recommend
108 agency action on variance requests. The committee shall make its
109 recommendations on variance requests at the meeting in which the
110 application is scheduled for consideration, except for an
111 extraordinary change in circumstances, the receipt of new
112 information that raises new issues, or when the applicant
113 requests an extension. The committee shall consider the criteria
114 in subparagraph 1. in its recommended agency action on variance
115 requests and shall also strive to allow property owners the full
116 use of their land where possible. The committee consists of the
117 following:
118 a. The Secretary of Environmental Protection ~~State Surgeon~~
119 ~~General~~ or his or her designee.
120 b. A representative from the county health departments.
121 c. A representative from the home building industry
122 recommended by the Florida Home Builders Association.
123 d. A representative from the septic tank industry
124 recommended by the Florida Onsite Wastewater Association.
125 e. A representative from the Department of Health
126 ~~Environmental Protection~~.

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127 f. A representative from the real estate industry who is
128 also a developer in this state who develops lots using onsite
129 sewage treatment and disposal systems, recommended by the
130 Florida Association of Realtors.
131 g. A representative from the engineering profession
132 recommended by the Florida Engineering Society.
133
134 Members shall be appointed for a term of 3 years, with such
135 appointments being staggered so that the terms of no more than
136 two members expire in any one year. Members shall serve without
137 remuneration, but if requested, shall be reimbursed for per diem
138 and travel expenses as provided in s. 112.061.
139 (i) A construction permit may not be issued for an onsite
140 sewage treatment and disposal system in any area zoned or used
141 for industrial or manufacturing purposes, or its equivalent,
142 where a publicly owned or investor-owned sewage treatment system
143 is available, or where a likelihood exists that the system will
144 receive toxic, hazardous, or industrial waste. An existing
145 onsite sewage treatment and disposal system may be repaired if a
146 publicly owned or investor-owned sewerage system is not
147 available within 500 feet of the building sewer stub-out and if
148 system construction and operation standards can be met. This
149 paragraph does not require publicly owned or investor-owned
150 sewerage treatment systems to accept anything other than
151 domestic wastewater.
152 1. A building located in an area zoned or used for
153 industrial or manufacturing purposes, or its equivalent, when
154 such building is served by an onsite sewage treatment and
155 disposal system, must not be occupied until the owner or tenant

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156 has obtained written approval from the department. The
157 department may ~~shall~~ not grant approval when the proposed use of
158 the system is to dispose of toxic, hazardous, or industrial
159 wastewater or toxic or hazardous chemicals.
160 2. Each person who owns or operates a business or facility
161 in an area zoned or used for industrial or manufacturing
162 purposes, or its equivalent, or who owns or operates a business
163 that has the potential to generate toxic, hazardous, or
164 industrial wastewater or toxic or hazardous chemicals, and uses
165 an onsite sewage treatment and disposal system that is installed
166 on or after July 5, 1989, must obtain an annual system operating
167 permit from the department. A person who owns or operates a
168 business that uses an onsite sewage treatment and disposal
169 system that was installed and approved before July 5, 1989, need
170 not obtain a system operating permit. However, upon change of
171 ownership or tenancy, the new owner or operator must notify the
172 department of the change, and the new owner or operator must
173 obtain an annual system operating permit, regardless of the date
174 that the system was installed or approved.
175 3. The department shall periodically review and evaluate
176 the continued use of onsite sewage treatment and disposal
177 systems in areas zoned or used for industrial or manufacturing
178 purposes, or its equivalent, and may require the collection and
179 analyses of samples from within and around such systems. If the
180 department finds that toxic or hazardous chemicals or toxic,
181 hazardous, or industrial wastewater have been or are being
182 disposed of through an onsite sewage treatment and disposal
183 system, the department shall initiate enforcement actions
184 against the owner or tenant to ensure adequate cleanup,

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185 treatment, and disposal.
186 (j) An onsite sewage treatment and disposal system designed
187 by a professional engineer registered in the state and certified
188 by such engineer as complying with performance criteria adopted
189 by the department must be approved by the department subject to
190 the following:
191 1. The performance criteria applicable to engineer-designed
192 systems must be limited to those necessary to ensure that such
193 systems do not adversely affect the public health or
194 significantly degrade the groundwater or surface water. Such
195 performance criteria shall include consideration of the quality
196 of system effluent, the proposed total sewage flow per acre,
197 wastewater treatment capabilities of the natural or replaced
198 soil, water quality classification of the potential surface-
199 water-receiving body, and the structural and maintenance
200 viability of the system for the treatment of domestic
201 wastewater. However, performance criteria shall address only the
202 performance of a system and not a system’s design.
203 2. A person electing to utilize an engineer-designed system
204 shall, upon completion of the system design, submit such design,
205 certified by a registered professional engineer, to the county
206 health department. The county health department may utilize an
207 outside consultant to review the engineer-designed system, with
208 the actual cost of such review to be borne by the applicant.
209 Within 5 working days after receiving an engineer-designed
210 system permit application, the county health department shall
211 request additional information if the application is not
212 complete. Within 15 working days after receiving a complete
213 application for an engineer-designed system, the county health

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214 department either shall issue the permit or, if it determines
215 that the system does not comply with the performance criteria,
216 shall notify the applicant of that determination and refer the
217 application to the department for a determination as to whether
218 the system should be approved, disapproved, or approved with
219 modification. The department engineer’s determination shall
220 prevail over the action of the county health department. The
221 applicant shall be notified in writing of the department’s
222 determination and of the applicant’s rights to pursue a variance
223 or seek review under ~~the provisions of~~ chapter 120.
224 3. The owner of an engineer-designed performance-based
225 system must maintain a current maintenance service agreement
226 with a maintenance entity permitted by the department. The
227 maintenance entity shall inspect each system at least twice each
228 year and shall report quarterly to the department on the number
229 of systems inspected and serviced. The reports may be submitted
230 electronically.
231 4. The property owner of an owner-occupied, single-family
232 residence may be approved and permitted by the department as a
233 maintenance entity for his or her own performance-based
234 treatment system upon written certification from the system
235 manufacturer’s approved representative that the property owner
236 has received training on the proper installation and service of
237 the system. The maintenance service agreement must conspicuously
238 disclose that the property owner has the right to maintain his
239 or her own system and is exempt from contractor registration
240 requirements for performing construction, maintenance, or
241 repairs on the system but is subject to all permitting
242 requirements.

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243 5. The property owner shall obtain a biennial system
244 operating permit from the department for each system. The
245 department shall inspect the system at least annually, or on
246 such periodic basis as the fee collected permits, and may
247 collect system-effluent samples if appropriate to determine
248 compliance with the performance criteria. The fee for the
249 biennial operating permit shall be collected beginning with the
250 second year of system operation.
251 6. If an engineer-designed system fails to properly
252 function or fails to meet performance standards, the system
253 shall be re-engineered, if necessary, to bring the system into
254 compliance with ~~the provisions of~~ this section.
255 (k) An innovative system may be approved in conjunction
256 with an engineer-designed site-specific system which is
257 certified by the engineer to meet the performance-based criteria
258 adopted by the department.
259 (l) For the Florida Keys, the department shall adopt a
260 special rule for the construction, installation, modification,
261 operation, repair, maintenance, and performance of onsite sewage
262 treatment and disposal systems which considers the unique soil
263 conditions and water table elevations, densities, and setback
264 requirements. On lots where a setback distance of 75 feet from
265 surface waters, saltmarsh, and buttonwood association habitat
266 areas cannot be met, an injection well, approved and permitted
267 by the department, may be used for disposal of effluent from
268 onsite sewage treatment and disposal systems. The following
269 additional requirements apply to onsite sewage treatment and
270 disposal systems in Monroe County:
271 1. The county, each municipality, and those special

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272 districts established for the purpose of the collection,
273 transmission, treatment, or disposal of sewage shall ensure, in
274 accordance with the specific schedules adopted by the
275 Administration Commission under s. 380.0552, the completion of
276 onsite sewage treatment and disposal system upgrades to meet the
277 requirements of this paragraph.
278 2. Onsite sewage treatment and disposal systems must cease
279 discharge by December 31, 2015, or must comply with department
280 rules and provide the level of treatment which, on a permitted
281 annual average basis, produces an effluent that contains no more
282 than the following concentrations:
283 a. Biochemical Oxygen Demand (CBOD5) of 10 mg/l.
284 b. Suspended Solids of 10 mg/l.
285 c. Total Nitrogen, expressed as N, of 10 mg/l or a
286 reduction in nitrogen of at least 70 percent. A system that has
287 been tested and certified to reduce nitrogen concentrations by
288 at least 70 percent shall be deemed to be in compliance with
289 this standard.
290 d. Total Phosphorus, expressed as P, of 1 mg/l.
291
292 In addition, onsite sewage treatment and disposal systems
293 discharging to an injection well must provide basic disinfection
294 as defined by department rule.
295 3. In areas not scheduled to be served by a central sewer,
296 onsite sewage treatment and disposal systems must, by December
297 31, 2015, comply with department rules and provide the level of
298 treatment described in subparagraph 2.
299 4. In areas scheduled to be served by central sewer by
300 December 31, 2015, if the property owner has paid a connection

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301 fee or assessment for connection to the central sewer system,
302 the property owner may install a holding tank with a high water
303 alarm or an onsite sewage treatment and disposal system that
304 meets the following minimum standards:
305 a. The existing tanks must be pumped and inspected and
306 certified as being watertight and free of defects in accordance
307 with department rule; and
308 b. A sand-lined drainfield or injection well in accordance
309 with department rule must be installed.
310 5. Onsite sewage treatment and disposal systems must be
311 monitored for total nitrogen and total phosphorus concentrations
312 as required by department rule.
313 6. The department shall enforce proper installation,
314 operation, and maintenance of onsite sewage treatment and
315 disposal systems pursuant to this chapter, including ensuring
316 that the appropriate level of treatment described in
317 subparagraph 2. is met.
318 7. The authority of a local government, including a special
319 district, to mandate connection of an onsite sewage treatment
320 and disposal system is governed by s. 4, chapter 99-395, Laws of
321 Florida.
322 8. Notwithstanding any other ~~provision of~~ law, an onsite
323 sewage treatment and disposal system installed after July 1,
324 2010, in unincorporated Monroe County, excluding special
325 wastewater districts, that complies with the standards in
326 subparagraph 2. is not required to connect to a central sewer
327 system until December 31, 2020.
328 (m) No product sold in the state for use in onsite sewage
329 treatment and disposal systems may contain any substance in

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330 concentrations or amounts that would interfere with or prevent
331 the successful operation of such system, or that would cause
332 discharges from such systems to violate applicable water quality
333 standards. The department shall publish criteria for products
334 known or expected to meet the conditions of this paragraph. In
335 the event a product does not meet such criteria, such product
336 may be sold if the manufacturer satisfactorily demonstrates to
337 the department that the conditions of this paragraph are met.
338 (n) Evaluations for determining the seasonal high-water
339 table elevations or the suitability of soils for the use of a
340 new onsite sewage treatment and disposal system shall be
341 performed by department personnel, professional engineers
342 registered in the state, or such other persons with expertise,
343 as defined by rule, in making such evaluations. Evaluations for
344 determining mean annual flood lines shall be performed by those
345 persons identified in paragraph (2)(k) ~~(2)(j)~~. The department
346 shall accept evaluations submitted by professional engineers and
347 such other persons as meet the expertise established by this
348 section or by rule unless the department has a reasonable
349 scientific basis for questioning the accuracy or completeness of
350 the evaluation.
351 (o) The department shall appoint a research review and
352 advisory committee, which shall meet at least semiannually. The
353 committee shall advise the department on directions for new
354 research, review and rank proposals for research contracts, and
355 review draft research reports and make comments. The committee
356 is comprised of:
357 1. A representative of the Secretary of Environmental
358 Protection ~~State Surgeon General~~, or his or her designee.

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359 2. A representative from the septic tank industry.
360 3. A representative from the home building industry.
361 4. A representative from an environmental interest group.
362 5. A representative from the State University System, from
363 a department knowledgeable about onsite sewage treatment and
364 disposal systems.
365 6. A professional engineer registered in this state who has
366 work experience in onsite sewage treatment and disposal systems.
367 7. A representative from local government who is
368 knowledgeable about domestic wastewater treatment.
369 8. A representative from the real estate profession.
370 9. A representative from the restaurant industry.
371 10. A consumer.
372
373 Members shall be appointed for a term of 3 years, with the
374 appointments being staggered so that the terms of no more than
375 four members expire in any one year. Members shall serve without
376 remuneration, but are entitled to reimbursement for per diem and
377 travel expenses as provided in s. 112.061.
378 (p) An application for an onsite sewage treatment and
379 disposal system permit shall be completed in full, signed by the
380 owner or the owner’s authorized representative, or by a
381 contractor licensed under chapter 489, and shall be accompanied
382 by all required exhibits and fees. No specific documentation of
383 property ownership shall be required as a prerequisite to the
384 review of an application or the issuance of a permit. The
385 issuance of a permit does not constitute determination by the
386 department of property ownership.
387 (q) The department may not require any form of subdivision

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388 analysis of property by an owner, developer, or subdivider prior
389 to submission of an application for an onsite sewage treatment
390 and disposal system.
391 (r) Nothing in this section limits the power of a
392 municipality or county to enforce other laws for the protection
393 of the public health and safety.
394 (s) In the siting of onsite sewage treatment and disposal
395 systems, including drainfields, shoulders, and slopes, guttering
396 may ~~shall~~ not be required on single-family residential dwelling
397 units for systems located greater than 5 feet from the roof drip
398 line of the house. If guttering is used on residential dwelling
399 units, the downspouts shall be directed away from the
400 drainfield.
401 (t) Notwithstanding ~~the provisions of~~ subparagraph (g)1.,
402 onsite sewage treatment and disposal systems located in
403 floodways of the Suwannee and Aucilla Rivers must adhere to the
404 following requirements:
405 1. The absorption surface of the drainfield may ~~shall~~ not
406 be subject to flooding based on 10-year flood elevations.
407 Provided, however, for lots or parcels created by the
408 subdivision of land in accordance with applicable local
409 government regulations prior to January 17, 1990, if an
410 applicant cannot construct a drainfield system with the
411 absorption surface of the drainfield at an elevation equal to or
412 above 10-year flood elevation, the department shall issue a
413 permit for an onsite sewage treatment and disposal system within
414 the 10-year floodplain of rivers, streams, and other bodies of
415 flowing water if all of the following criteria are met:
416 a. The lot is at least one-half acre in size;

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417 b. The bottom of the drainfield is at least 36 inches above
418 the 2-year flood elevation; and
419 c. The applicant installs either: a waterless,
420 incinerating, or organic waste composting toilet and a graywater
421 system and drainfield in accordance with department rules; an
422 aerobic treatment unit and drainfield in accordance with
423 department rules; a system ~~approved by the State Health Office~~
424 that is capable of reducing effluent nitrate by at least 50
425 percent in accordance with department rules; or a system other
426 than a system using alternative drainfield materials in
427 accordance with department rules ~~approved by the county health~~
428 ~~department pursuant to department rule other than a system using~~
429 ~~alternative drainfield materials~~. The United States Department
430 of Agriculture Soil Conservation Service soil maps, State of
431 Florida Water Management District data, and Federal Emergency
432 Management Agency Flood Insurance maps are resources that shall
433 be used to identify flood-prone areas.
434 2. The use of fill or mounding to elevate a drainfield
435 system out of the 10-year floodplain of rivers, streams, or
436 other bodies of flowing water may ~~shall~~ not be permitted if such
437 a system lies within a regulatory floodway of the Suwannee and
438 Aucilla Rivers. In cases where the 10-year flood elevation does
439 not coincide with the boundaries of the regulatory floodway, the
440 regulatory floodway will be considered for the purposes of this
441 subsection to extend at a minimum to the 10-year flood
442 elevation.
443 (u)1. The owner of an aerobic treatment unit system shall
444 maintain a current maintenance service agreement with an aerobic
445 treatment unit maintenance entity permitted by the department.

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446 The maintenance entity shall inspect each aerobic treatment unit
447 system at least twice each year and shall report quarterly to
448 the department on the number of aerobic treatment unit systems
449 inspected and serviced. The reports may be submitted
450 electronically.
451 2. The property owner of an owner-occupied, single-family
452 residence may be approved and permitted by the department as a
453 maintenance entity for his or her own aerobic treatment unit
454 system upon written certification from the system manufacturer's
455 approved representative that the property owner has received
456 training on the proper installation and service of the system.
457 The maintenance entity service agreement must conspicuously
458 disclose that the property owner has the right to maintain his
459 or her own system and is exempt from contractor registration
460 requirements for performing construction, maintenance, or
461 repairs on the system but is subject to all permitting
462 requirements.
463 3. A septic tank contractor licensed under part III of
464 chapter 489, if approved by the manufacturer, may not be denied
465 access by the manufacturer to aerobic treatment unit system
466 training or spare parts for maintenance entities. After the
467 original warranty period, component parts for an aerobic
468 treatment unit system may be replaced with parts that meet
469 manufacturer's specifications but are manufactured by others.
470 The maintenance entity shall maintain documentation of the
471 substitute part's equivalency for 2 years and shall provide such
472 documentation to the department upon request.
473 4. The owner of an aerobic treatment unit system shall
474 obtain a system operating permit from the department and allow

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475 the department to inspect during reasonable hours each aerobic
476 treatment unit system at least annually, and such inspection may
477 include collection and analysis of system-effluent samples for
478 performance criteria established by rule of the department.
479 (v) The department may require the submission of detailed
480 system construction plans that are prepared by a professional
481 engineer registered in this state. The department shall
482 establish by rule criteria for determining when such a
483 submission is required.
484 (w) Any permit issued and approved by the department for
485 the installation, modification, or repair of an onsite sewage
486 treatment and disposal system shall transfer with the title to
487 the property in a real estate transaction. A title may not be
488 encumbered at the time of transfer by new permit requirements by
489 a governmental entity for an onsite sewage treatment and
490 disposal system which differ from the permitting requirements in
491 effect at the time the system was permitted, modified, or
492 repaired. An inspection of a system may not be mandated by a
493 governmental entity at the point of sale in a real estate
494 transaction. This paragraph does not affect a septic tank phase-
495 out deferral program implemented by a consolidated government as
496 defined in s. 9, Art. VIII of the State Constitution (1885).
497 (x) A governmental entity, including a municipality,
498 county, or statutorily created commission, may not require an
499 engineer-designed performance-based treatment system, excluding
500 a passive engineer-designed performance-based treatment system,
501 before the completion of the Florida Onsite Sewage Nitrogen
502 Reduction Strategies Project. This paragraph does not apply to a
503 governmental entity, including a municipality, county, or

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504 statutorily created commission, which adopted a local law,
505 ordinance, or regulation on or before January 31, 2012.
506 Notwithstanding this paragraph, an engineer-designed
507 performance-based treatment system may be used to meet the
508 requirements of the variance review and advisory committee
509 recommendations.
510 (y)1. An onsite sewage treatment and disposal system is not
511 considered abandoned if the system is disconnected from a
512 structure that was made unusable or destroyed following a
513 disaster and if the system was properly functioning at the time
514 of disconnection and was not adversely affected by the disaster.
515 The onsite sewage treatment and disposal system may be
516 reconnected to a rebuilt structure if:
517 a. The reconnection of the system is to the same type of
518 structure which contains the same number of bedrooms or fewer,
519 if the square footage of the structure is less than or equal to
520 110 percent of the original square footage of the structure that
521 existed before the disaster;
522 b. The system is not a sanitary nuisance; and
523 c. The system has not been altered without prior
524 authorization.
525 2. An onsite sewage treatment and disposal system that
526 serves a property that is foreclosed upon is not considered
527 abandoned.
528 (z) If an onsite sewage treatment and disposal system
529 permittee receives, relies upon, and undertakes construction of
530 a system based upon a validly issued construction permit under
531 rules applicable at the time of construction but a change to a
532 rule occurs within 5 years after the approval of the system for

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533 construction but before the final approval of the system, the
534 rules applicable and in effect at the time of construction
535 approval apply at the time of final approval if fundamental site
536 conditions have not changed between the time of construction
537 approval and final approval.
538 (aa) An existing-system inspection or evaluation and
539 assessment, or a modification, replacement, or upgrade of an
540 onsite sewage treatment and disposal system is not required for
541 a remodeling addition or modification to a single-family home if
542 a bedroom is not added. However, a remodeling addition or
543 modification to a single-family home may not cover any part of
544 the existing system or encroach upon a required setback or the
545 unobstructed area. To determine if a setback or the unobstructed
546 area is impacted, the local health department shall review and
547 verify a floor plan and site plan of the proposed remodeling
548 addition or modification to the home submitted by a remodeler
549 which shows the location of the system, including the distance
550 of the remodeling addition or modification to the home from the
551 onsite sewage treatment and disposal system. The local health
552 department may visit the site or otherwise determine the best
553 means of verifying the information submitted. A verification of
554 the location of a system is not an inspection or evaluation and
555 assessment of the system. The review and verification must be
556 completed within 7 business days after receipt by the local
557 health department of a floor plan and site plan. If the review
558 and verification is not completed within such time, the
559 remodeling addition or modification to the single-family home,
560 for the purposes of this paragraph, is approved.
561 Section 5. Section 381.00652, Florida Statutes, is created

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562 to read:
563 381.00652 Onsite sewage treatment and disposal systems
564 technical advisory committee.—
565 (1) An onsite sewage treatment and disposal systems
566 technical advisory committee, a committee as defined in s.
567 20.03(8), is created within the department. The committee shall:
568 (a) Provide recommendations to increase the availability in
569 the marketplace of enhanced nutrient-reducing onsite sewage
570 treatment and disposal systems, including systems that are cost-
571 effective, low-maintenance, and reliable.
572 (b) Consider and recommend regulatory options, such as
573 fast-track approval, prequalification, or expedited permitting,
574 to facilitate the introduction and use of enhanced nutrient-
575 reducing onsite sewage treatment and disposal systems that have
576 been reviewed and approved by a national agency or organization,
577 such as the American National Standards Institute 245 systems
578 approved by the NSF International.
579 (c) Provide recommendations for appropriate setback
580 distances for onsite sewage treatment and disposal systems from
581 surface water, groundwater, and wells.
582 (2) The department shall use existing and available
583 resources to administer and support the activities of the
584 committee.
585 (3)(a) By August 1, 2021, the department, in consultation
586 with the Department of Health, shall appoint no more than nine
587 members to the committee, including, but not limited to, the
588 following:
589 1. A professional engineer.
590 2. A septic tank contractor.

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591 3. A representative from the home building industry.
592 4. A representative from the real estate industry.
593 5. A representative from the onsite sewage treatment and
594 disposal system industry.
595 6. A representative from local government.
596 7. Two representatives from the environmental community.
597 8. A representative of the scientific and technical
598 community who has substantial expertise in the areas of the fate
599 and transport of water pollutants, toxicology, epidemiology,
600 geology, biology, or environmental sciences.
601 (b) Members shall serve without compensation and are not
602 entitled to reimbursement for per diem or travel expenses.
603 (4) By January 1, 2022, the committee shall submit its
604 recommendations to the Governor, the President of the Senate,
605 and the Speaker of the House of Representatives.
606 (5) This section expires August 15, 2022.
607 (6) For purposes of this section, the term "department"
608 means the Department of Environmental Protection.
609 Section 6. Effective July 1, 2021, section 381.0068,
610 Florida Statutes, is repealed.
611 Section 7. Present subsections (14) through (44) of section
612 403.061, Florida Statutes, are redesignated as subsections (15)
613 through (45), respectively, a new subsection (14) is added to
614 that section, and subsection (7) of that section is amended, to
615 read:
616 403.061 Department; powers and duties.—The department shall
617 have the power and the duty to control and prohibit pollution of
618 air and water in accordance with the law and rules adopted and
619 promulgated by it and, for this purpose, to:

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620 (7) Adopt rules pursuant to ss. 120.536(1) and 120.54 to
621 implement ~~the provisions of~~ this act. Any rule adopted pursuant
622 to this act must ~~shall~~ be consistent with the provisions of
623 federal law, if any, relating to control of emissions from motor
624 vehicles, effluent limitations, pretreatment requirements, or
625 standards of performance. A ~~No~~ county, municipality, or
626 political subdivision may not ~~shall~~ adopt or enforce any local
627 ordinance, special law, or local regulation requiring the
628 installation of Stage II vapor recovery systems, as currently
629 defined by department rule, unless such county, municipality, or
630 political subdivision is or has been in the past designated by
631 federal regulation as a moderate, serious, or severe ozone
632 nonattainment area. Rules adopted pursuant to this act may ~~shall~~
633 not require dischargers of waste into waters of the state to
634 improve natural background conditions. The department shall
635 adopt rules to reasonably limit, reduce, and eliminate domestic
636 wastewater collection and transmission system pipe leakages and
637 inflow and infiltration. Discharges from steam electric
638 generating plants existing or licensed under this chapter on
639 July 1, 1984, may ~~shall~~ not be required to be treated to a
640 greater extent than may be necessary to assure that the quality
641 of nonthermal components of discharges from nonrecirculated
642 cooling water systems is as high as the quality of the makeup
643 waters; that the quality of nonthermal components of discharges
644 from recirculated cooling water systems is no lower than is
645 allowed for blowdown from such systems; or that the quality of
646 noncooling system discharges which receive makeup water from a
647 receiving body of water which does not meet applicable
648 department water quality standards is as high as the quality of

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649 the receiving body of water. The department may not adopt
650 standards more stringent than federal regulations, except as
651 provided in s. 403.804.
652 (14) In order to promote resilient utilities, require
653 public utilities or their affiliated companies holding, applying
654 for, or renewing a domestic wastewater discharge permit to file
655 annual reports and other data regarding transactions or
656 allocations of common costs and expenditures on pollution
657 mitigation and prevention among the utility's permitted systems,
658 including, but not limited to, the prevention of sanitary sewer
659 overflows, collection and transmission system pipe leakages, and
660 inflow and infiltration. The department shall adopt rules to
661 implement this subsection.
662
663 The department shall implement such programs in conjunction with
664 its other powers and duties and shall place special emphasis on
665 reducing and eliminating contamination that presents a threat to
666 humans, animals or plants, or to the environment.
667 Section 8. Section 403.0616, Florida Statutes, is created
668 to read:
669 403.0616 Real-time water quality monitoring program.-
670 (1) Subject to appropriation, the department shall
671 establish a real-time water quality monitoring program to assist
672 in the restoration, preservation, and enhancement of impaired
673 waterbodies and coastal resources.
674 (2) In order to expedite the creation and implementation of
675 the program, the department is encouraged to form public-private
676 partnerships with established scientific entities that have
677 proven existing real-time water quality monitoring equipment and

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678 experience in deploying the equipment.
679 Section 9. Subsection (7) of section 403.067, Florida
680 Statutes, is amended to read:
681 403.067 Establishment and implementation of total maximum
682 daily loads.—
683 (7) DEVELOPMENT OF BASIN MANAGEMENT PLANS AND
684 IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.—
685 (a) *Basin management action plans.*—
686 1. In developing and implementing the total maximum daily
687 load for a water body, the department, or the department in
688 conjunction with a water management district, may develop a
689 basin management action plan that addresses some or all of the
690 watersheds and basins tributary to the water body. Such plan
691 must integrate the appropriate management strategies available
692 to the state through existing water quality protection programs
693 to achieve the total maximum daily loads and may provide for
694 phased implementation of these management strategies to promote
695 timely, cost-effective actions as provided for in s. 403.151.
696 The plan must establish a schedule implementing the management
697 strategies, establish a basis for evaluating the plan's
698 effectiveness, and identify feasible funding strategies for
699 implementing the plan's management strategies. The management
700 strategies may include regional treatment systems or other
701 public works, where appropriate, and voluntary trading of water
702 quality credits to achieve the needed pollutant load reductions.
703 2. A basin management action plan must equitably allocate,
704 pursuant to paragraph (6)(b), pollutant reductions to individual
705 basins, as a whole to all basins, or to each identified point
706 source or category of nonpoint sources, as appropriate. For

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707 nonpoint sources for which best management practices have been
708 adopted, the initial requirement specified by the plan must be
709 those practices developed pursuant to paragraph (c). When ~~Where~~
710 appropriate, the plan may take into account the benefits of
711 pollutant load reduction achieved by point or nonpoint sources
712 that have implemented management strategies to reduce pollutant
713 loads, including best management practices, before the
714 development of the basin management action plan. The plan must
715 also identify the mechanisms that will address potential future
716 increases in pollutant loading.
717 3. The basin management action planning process is intended
718 to involve the broadest possible range of interested parties,
719 with the objective of encouraging the greatest amount of
720 cooperation and consensus possible. In developing a basin
721 management action plan, the department shall assure that key
722 stakeholders, including, but not limited to, applicable local
723 governments, water management districts, the Department of
724 Agriculture and Consumer Services, other appropriate state
725 agencies, local soil and water conservation districts,
726 environmental groups, regulated interests, and affected
727 pollution sources, are invited to participate in the process.
728 The department shall hold at least one public meeting in the
729 vicinity of the watershed or basin to discuss and receive
730 comments during the planning process and shall otherwise
731 encourage public participation to the greatest practicable
732 extent. Notice of the public meeting must be published in a
733 newspaper of general circulation in each county in which the
734 watershed or basin lies at least ~~not less than~~ 5 days, but not
735 ~~nor~~ more than 15 days, before the public meeting. A basin

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736 management action plan does not supplant or otherwise alter any
737 assessment made under subsection (3) or subsection (4) or any
738 calculation or initial allocation.
739 4. Each new or revised basin management action plan shall
740 include:
741 a. The appropriate management strategies available through
742 existing water quality protection programs to achieve total
743 maximum daily loads, which may provide for phased implementation
744 to promote timely, cost-effective actions as provided for in s.
745 403.151;
746 b. A description of best management practices adopted by
747 rule;
748 c. A list of projects in priority ranking with a planning-
749 level cost estimate and estimated date of completion for each
750 listed project;
751 d. The source and amount of financial assistance to be made
752 available by the department, a water management district, or
753 other entity for each listed project, if applicable; and
754 e. A planning-level estimate of each listed project's
755 expected load reduction, if applicable.
756 5. The department shall adopt all or any part of a basin
757 management action plan and any amendment to such plan by
758 secretarial order pursuant to chapter 120 to implement ~~the~~
759 ~~provisions of~~ this section.
760 6. The basin management action plan must include milestones
761 for implementation and water quality improvement, and an
762 associated water quality monitoring component sufficient to
763 evaluate whether reasonable progress in pollutant load
764 reductions is being achieved over time. An assessment of

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765 progress toward these milestones shall be conducted every 5
766 years, and revisions to the plan shall be made as appropriate.
767 Revisions to the basin management action plan shall be made by
768 the department in cooperation with basin stakeholders. Revisions
769 to the management strategies required for nonpoint sources must
770 follow the procedures set forth in subparagraph (c)4. Revised
771 basin management action plans must be adopted pursuant to
772 subparagraph 5.
773 7. In accordance with procedures adopted by rule under
774 paragraph (9)(c), basin management action plans, and other
775 pollution control programs under local, state, or federal
776 authority as provided in subsection (4), may allow point or
777 nonpoint sources that will achieve greater pollutant reductions
778 than required by an adopted total maximum daily load or
779 wasteload allocation to generate, register, and trade water
780 quality credits for the excess reductions to enable other
781 sources to achieve their allocation; however, the generation of
782 water quality credits does not remove the obligation of a source
783 or activity to meet applicable technology requirements or
784 adopted best management practices. Such plans must allow trading
785 between NPDES permittees, and trading that may or may not
786 involve NPDES permittees, where the generation or use of the
787 credits involve an entity or activity not subject to department
788 water discharge permits whose owner voluntarily elects to obtain
789 department authorization for the generation and sale of credits.
790 8. ~~The provisions of~~ The department’s rule relating to the
791 equitable abatement of pollutants into surface waters do not
792 apply to water bodies or water body segments for which a basin
793 management plan that takes into account future new or expanded

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794 activities or discharges has been adopted under this section.
795 9. In order to promote resilient utilities, if the
796 department identifies domestic wastewater facilities or onsite
797 sewage treatment and disposal systems as contributors of at
798 least 20 percent of point source or nonpoint source nutrient
799 pollution or if the department determines remediation is
800 necessary to achieve the total maximum daily load, a basin
801 management action plan for a nutrient total maximum daily load
802 must include the following:
803 a. A wastewater treatment plan that addresses domestic
804 wastewater developed by each local government in cooperation
805 with the department, the water management district, and the
806 public and private domestic wastewater facilities within the
807 jurisdiction of the local government. The wastewater treatment
808 plan must:
809 (I) Provide for construction, expansion, or upgrades
810 necessary to achieve the total maximum daily load requirements
811 applicable to the domestic wastewater facility.
812 (II) Include the permitted capacity in average annual
813 gallons per day for the domestic wastewater facility; the
814 average nutrient concentration and the estimated average
815 nutrient load of the domestic wastewater; a timeline of the
816 dates by which the construction of any facility improvements
817 will begin and be completed and the date by which operations of
818 the improved facility will begin; the estimated cost of the
819 improvements; and the identity of responsible parties.
820
821 The wastewater treatment plan must be adopted as part of the
822 basin management action plan no later than July 1, 2025. A local

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823 government that does not have a domestic wastewater treatment
824 facility in its jurisdiction is not required to develop a
825 wastewater treatment plan unless there is a demonstrated need to
826 establish a domestic wastewater treatment facility within its
827 jurisdiction to improve water quality necessary to achieve a
828 total maximum daily load. A local government is not responsible
829 for a private domestic wastewater facility's compliance with a
830 basin management action plan.
831 b. An onsite sewage treatment and disposal system
832 remediation plan developed by each local government in
833 cooperation with the department, the Department of Health, water
834 management districts, and public and private domestic wastewater
835 facilities.
836 (I) The onsite sewage treatment and disposal system
837 remediation plan must identify cost-effective and financially
838 feasible projects necessary to achieve the nutrient load
839 reductions required for onsite sewage treatment and disposal
840 systems. To identify cost-effective and financially feasible
841 projects for remediation of onsite sewage treatment and disposal
842 systems, the local government shall:
843 (A) Include an inventory of onsite sewage treatment and
844 disposal systems based on the best information available;
845 (B) Identify onsite sewage treatment and disposal systems
846 that would be eliminated through connection to existing or
847 future central domestic wastewater infrastructure in the
848 jurisdiction or domestic wastewater service area of the local
849 government, that would be replaced with or upgraded to enhanced
850 nutrient-reducing systems, or that would remain on conventional
851 onsite sewage treatment and disposal systems;

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852 (C) Estimate the costs of potential onsite sewage treatment
853 and disposal systems connections, upgrades, or replacements; and
854 (D) Identify deadlines and interim milestones for the
855 planning, design, and construction of projects.
856 (II) The department shall adopt the onsite sewage treatment
857 and disposal system remediation plan as part of the basin
858 management action plan no later than July 1, 2025, or as
859 required for Outstanding Florida Springs under s. 373.807.
860 10. When identifying wastewater projects in a basin
861 management action plan, the department may not require the
862 higher cost option if it achieves the same nutrient load
863 reduction as a lower cost option.
864 (b) *Total maximum daily load implementation.*—
865 1. The department shall be the lead agency in coordinating
866 the implementation of the total maximum daily loads through
867 existing water quality protection programs. Application of a
868 total maximum daily load by a water management district must be
869 consistent with this section and does not require the issuance
870 of an order or a separate action pursuant to s. 120.536(1) or s.
871 120.54 for the adoption of the calculation and allocation
872 previously established by the department. Such programs may
873 include, but are not limited to:
874 a. Permitting and other existing regulatory programs,
875 including water-quality-based effluent limitations;
876 b. Nonregulatory and incentive-based programs, including
877 best management practices, cost sharing, waste minimization,
878 pollution prevention, agreements established pursuant to s.
879 403.061(22) ~~s. 403.061(21)~~, and public education;
880 c. Other water quality management and restoration

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881 activities, for example surface water improvement and management
882 plans approved by water management districts or basin management
883 action plans developed pursuant to this subsection;
884 d. Trading of water quality credits or other equitable
885 economically based agreements;
886 e. Public works including capital facilities; or
887 f. Land acquisition.
888 2. For a basin management action plan adopted pursuant to
889 paragraph (a), any management strategies and pollutant reduction
890 requirements associated with a pollutant of concern for which a
891 total maximum daily load has been developed, including effluent
892 limits set forth for a discharger subject to NPDES permitting,
893 if any, must be included in a timely manner in subsequent NPDES
894 permits or permit modifications for that discharger. The
895 department may not impose limits or conditions implementing an
896 adopted total maximum daily load in an NPDES permit until the
897 permit expires, the discharge is modified, or the permit is
898 reopened pursuant to an adopted basin management action plan.
899 a. Absent a detailed allocation, total maximum daily loads
900 must be implemented through NPDES permit conditions that provide
901 for a compliance schedule. In such instances, a facility's NPDES
902 permit must allow time for the issuance of an order adopting the
903 basin management action plan. The time allowed for the issuance
904 of an order adopting the plan may not exceed 5 years. Upon
905 issuance of an order adopting the plan, the permit must be
906 reopened or renewed, as necessary, and permit conditions
907 consistent with the plan must be established. Notwithstanding
908 the other provisions of this subparagraph, upon request by an
909 NPDES permittee, the department as part of a permit issuance,

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910 renewal, or modification may establish individual allocations
911 before the adoption of a basin management action plan.
912 b. For holders of NPDES municipal separate storm sewer
913 system permits and other stormwater sources, implementation of a
914 total maximum daily load or basin management action plan must be
915 achieved, to the maximum extent practicable, through the use of
916 best management practices or other management measures.
917 c. The basin management action plan does not relieve the
918 discharger from any requirement to obtain, renew, or modify an
919 NPDES permit or to abide by other requirements of the permit.
920 d. Management strategies set forth in a basin management
921 action plan to be implemented by a discharger subject to
922 permitting by the department must be completed pursuant to the
923 schedule set forth in the basin management action plan. This
924 implementation schedule may extend beyond the 5-year term of an
925 NPDES permit.
926 e. Management strategies and pollution reduction
927 requirements set forth in a basin management action plan for a
928 specific pollutant of concern are not subject to challenge under
929 chapter 120 at the time they are incorporated, in an identical
930 form, into a subsequent NPDES permit or permit modification.
931 f. For nonagricultural pollutant sources not subject to
932 NPDES permitting but permitted pursuant to other state,
933 regional, or local water quality programs, the pollutant
934 reduction actions adopted in a basin management action plan must
935 be implemented to the maximum extent practicable as part of
936 those permitting programs.
937 g. A nonpoint source discharger included in a basin
938 management action plan must demonstrate compliance with the

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939 pollutant reductions established under subsection (6) by
940 implementing the appropriate best management practices
941 established pursuant to paragraph (c) or conducting water
942 quality monitoring prescribed by the department or a water
943 management district. A nonpoint source discharger may, in
944 accordance with department rules, supplement the implementation
945 of best management practices with water quality credit trades in
946 order to demonstrate compliance with the pollutant reductions
947 established under subsection (6).
948 h. A nonpoint source discharger included in a basin
949 management action plan may be subject to enforcement action by
950 the department or a water management district based upon a
951 failure to implement the responsibilities set forth in sub-
952 subparagraph g.
953 i. A landowner, discharger, or other responsible person who
954 is implementing applicable management strategies specified in an
955 adopted basin management action plan may not be required by
956 permit, enforcement action, or otherwise to implement additional
957 management strategies, including water quality credit trading,
958 to reduce pollutant loads to attain the pollutant reductions
959 established pursuant to subsection (6) and shall be deemed to be
960 in compliance with this section. This subparagraph does not
961 limit the authority of the department to amend a basin
962 management action plan as specified in subparagraph (a)6.
963 (c) *Best management practices.*—
964 1. The department, in cooperation with the water management
965 districts and other interested parties, as appropriate, may
966 develop suitable interim measures, best management practices, or
967 other measures necessary to achieve the level of pollution

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968 reduction established by the department for nonagricultural
969 nonpoint pollutant sources in allocations developed pursuant to
970 subsection (6) and this subsection. These practices and measures
971 may be adopted by rule by the department and the water
972 management districts and, where adopted by rule, shall be
973 implemented by those parties responsible for nonagricultural
974 nonpoint source pollution.
975 2. The Department of Agriculture and Consumer Services may
976 develop and adopt by rule pursuant to ss. 120.536(1) and 120.54
977 suitable interim measures, best management practices, or other
978 measures necessary to achieve the level of pollution reduction
979 established by the department for agricultural pollutant sources
980 in allocations developed pursuant to subsection (6) and this
981 subsection or for programs implemented pursuant to paragraph
982 (12)(b). These practices and measures may be implemented by
983 those parties responsible for agricultural pollutant sources and
984 the department, the water management districts, and the
985 Department of Agriculture and Consumer Services shall assist
986 with implementation. In the process of developing and adopting
987 rules for interim measures, best management practices, or other
988 measures, the Department of Agriculture and Consumer Services
989 shall consult with the department, the Department of Health, the
990 water management districts, representatives from affected
991 farming groups, and environmental group representatives. Such
992 rules must also incorporate provisions for a notice of intent to
993 implement the practices and a system to assure the
994 implementation of the practices, including site inspection and
995 recordkeeping requirements.
996 3. Where interim measures, best management practices, or

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997 other measures are adopted by rule, the effectiveness of such
998 practices in achieving the levels of pollution reduction
999 established in allocations developed by the department pursuant
1000 to subsection (6) and this subsection or in programs implemented
1001 pursuant to paragraph (12)(b) must be verified at representative
1002 sites by the department. The department shall use best
1003 professional judgment in making the initial verification that
1004 the best management practices are reasonably expected to be
1005 effective and, where applicable, must notify the appropriate
1006 water management district or the Department of Agriculture and
1007 Consumer Services of its initial verification before the
1008 adoption of a rule proposed pursuant to this paragraph.
1009 Implementation, in accordance with rules adopted under this
1010 paragraph, of practices that have been initially verified to be
1011 effective, or verified to be effective by monitoring at
1012 representative sites, by the department, shall provide a
1013 presumption of compliance with state water quality standards and
1014 release from ~~the provisions of~~ s. 376.307(5) for those
1015 pollutants addressed by the practices, and the department is not
1016 authorized to institute proceedings against the owner of the
1017 source of pollution to recover costs or damages associated with
1018 the contamination of surface water or groundwater caused by
1019 those pollutants. Research projects funded by the department, a
1020 water management district, or the Department of Agriculture and
1021 Consumer Services to develop or demonstrate interim measures or
1022 best management practices shall be granted a presumption of
1023 compliance with state water quality standards and a release from
1024 ~~the provisions of~~ s. 376.307(5). The presumption of compliance
1025 and release is limited to the research site and only for those

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1026 pollutants addressed by the interim measures or best management
1027 practices. Eligibility for the presumption of compliance and
1028 release is limited to research projects on sites where the owner
1029 or operator of the research site and the department, a water
1030 management district, or the Department of Agriculture and
1031 Consumer Services have entered into a contract or other
1032 agreement that, at a minimum, specifies the research objectives,
1033 the cost-share responsibilities of the parties, and a schedule
1034 that details the beginning and ending dates of the project.
1035 4. Where water quality problems are demonstrated, despite
1036 the appropriate implementation, operation, and maintenance of
1037 best management practices and other measures required by rules
1038 adopted under this paragraph, the department, a water management
1039 district, or the Department of Agriculture and Consumer
1040 Services, in consultation with the department, shall institute a
1041 reevaluation of the best management practice or other measure.
1042 Should the reevaluation determine that the best management
1043 practice or other measure requires modification, the department,
1044 a water management district, or the Department of Agriculture
1045 and Consumer Services, as appropriate, shall revise the rule to
1046 require implementation of the modified practice within a
1047 reasonable time period as specified in the rule.
1048 5. Subject to subparagraph 6., the Department of
1049 Agriculture and Consumer Services shall provide to the
1050 department information that it obtains pursuant to subparagraph
1051 (d)3.
1052 6. Agricultural records relating to processes or methods of
1053 production, costs of production, profits, or other financial
1054 information held by the Department of Agriculture and Consumer

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1055 Services pursuant to subparagraphs 3., ~~and~~ 4., and 5. or
1056 pursuant to any rule adopted pursuant to subparagraph 2. are
1057 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
1058 of the State Constitution. Upon request, records made
1059 confidential and exempt pursuant to this subparagraph shall be
1060 released to the department or any water management district
1061 provided that the confidentiality specified by this subparagraph
1062 for such records is maintained.
1063 7.~~6.~~ ~~The provisions of~~ Subparagraphs 1. and 2. do not
1064 preclude the department or water management district from
1065 requiring compliance with water quality standards or with
1066 current best management practice requirements set forth in any
1067 applicable regulatory program authorized by law for the purpose
1068 of protecting water quality. Additionally, subparagraphs 1. and
1069 2. are applicable only to the extent that they do not conflict
1070 with any rules adopted by the department that are necessary to
1071 maintain a federally delegated or approved program.
1072 (d) *Enforcement and verification of basin management action*
1073 *plans and management strategies.*—
1074 1. Basin management action plans are enforceable pursuant
1075 to this section and ss. 403.121, 403.141, and 403.161.
1076 Management strategies, including best management practices and
1077 water quality monitoring, are enforceable under this chapter.
1078 2. No later than January 1, 2017:
1079 a. The department, in consultation with the water
1080 management districts and the Department of Agriculture and
1081 Consumer Services, shall initiate rulemaking to adopt procedures
1082 to verify implementation of water quality monitoring required in
1083 lieu of implementation of best management practices or other

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1084 measures pursuant to sub-subparagraph (b)2.g.;
1085 b. The department, in consultation with the water
1086 management districts and the Department of Agriculture and
1087 Consumer Services, shall initiate rulemaking to adopt procedures
1088 to verify implementation of nonagricultural interim measures,
1089 best management practices, or other measures adopted by rule
1090 pursuant to subparagraph (c)1.; and
1091 c. The Department of Agriculture and Consumer Services, in
1092 consultation with the water management districts and the
1093 department, shall initiate rulemaking to adopt procedures to
1094 verify implementation of agricultural interim measures, best
1095 management practices, or other measures adopted by rule pursuant
1096 to subparagraph(c)2.
1097
1098 The rules required under this subparagraph shall include
1099 enforcement procedures applicable to the landowner, discharger,
1100 or other responsible person required to implement applicable
1101 management strategies, including best management practices or
1102 water quality monitoring as a result of noncompliance.
1103 3. At least every 2 years, the Department of Agriculture
1104 and Consumer Services shall perform onsite inspections of each
1105 agricultural producer that enrolls in a best management practice
1106 to ensure that such practice is being properly implemented. Such
1107 verification must include a review of the best management
1108 practice documentation required by rule adopted in accordance
1109 with subparagraph (c)2., including, but not limited to, nitrogen
1110 and phosphorous fertilizer application records, which must be
1111 collected and retained pursuant to subparagraphs (c)3., 4., and
1112 6.

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1113 (e) *Data collection and research.*—
1114 1. The Department of Agriculture and Consumer Services, the
1115 University of Florida Institute of Food and Agricultural
1116 Sciences, and other state universities and Florida College
1117 System institutions with agricultural research programs may
1118 annually develop research plans and legislative budget requests
1119 to:
1120 a. Evaluate and suggest enhancements to the existing
1121 adopted agricultural best management practices to reduce
1122 nutrients;
1123 b. Develop new best management practices that, if proven
1124 effective, the Department of Agriculture and Consumer Services
1125 may adopt by rule pursuant to paragraph (c); and
1126 c. Develop agricultural nutrient reduction projects that
1127 willing participants could implement on a site-specific,
1128 cooperative basis, in addition to best management practices. The
1129 department may consider these projects for inclusion in a basin
1130 management action plan. These nutrient reduction projects must
1131 reduce the nutrient impacts from agricultural operations on
1132 water quality when evaluated with the projects and management
1133 strategies currently included in the basin management action
1134 plan.
1135 2. To be considered for funding, the University of Florida
1136 Institute of Food and Agricultural Sciences and other state
1137 universities and Florida College System institutions that have
1138 agricultural research programs must submit such plans to the
1139 department and the Department of Agriculture and Consumer
1140 Services by August 1 of each year.
1141 Section 10. Section 403.0673, Florida Statutes, is created

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1142 to read:
1143 403.0673 Wastewater grant program.—A wastewater grant
1144 program is established within the Department of Environmental
1145 Protection.
1146 (1) Subject to the appropriation of funds by the
1147 Legislature, the department may provide grants for the following
1148 projects within a basin management action plan, an alternative
1149 restoration plan adopted by final order, or a rural area of
1150 opportunity under s. 288.0656 which will individually or
1151 collectively reduce excess nutrient pollution:
1152 (a) Projects to retrofit onsite sewage treatment and
1153 disposal systems to upgrade them to enhanced nutrient-reducing
1154 onsite sewage treatment and disposal systems.
1155 (b) Projects to construct, upgrade, or expand facilities to
1156 provide advanced waste treatment, as defined in s. 403.086(4).
1157 (c) Projects to connect onsite sewage treatment and
1158 disposal systems to central sewer facilities.
1159 (2) In allocating such funds, priority must be given to
1160 projects that subsidize the connection of onsite sewage
1161 treatment and disposal systems to wastewater treatment plants.
1162 First priority must be given to subsidize connection to existing
1163 infrastructure. Second priority must be given to any expansion
1164 of a collection or transmission system that promotes efficiency
1165 by planning the installation of wastewater transmission
1166 facilities to be constructed concurrently with other
1167 construction projects occurring within or along a transportation
1168 facility right-of-way. Third priority must be given to all other
1169 connection of onsite sewage treatment and disposal systems to a
1170 wastewater treatment plants. The department shall consider the

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1171 estimated reduction in nutrient load per project; project
1172 readiness; cost-effectiveness of the project; overall
1173 environmental benefit of a project; the location of a project;
1174 the availability of local matching funds; and projected water
1175 savings or quantity improvements associated with a project.
1176 (3) Each grant for a project described in subsection (1)
1177 must require a minimum of a 50 percent local match of funds.
1178 However, the department may, at its discretion, waive, in whole
1179 or in part, this consideration of the local contribution for
1180 proposed projects within an area designated as a rural area of
1181 opportunity under s. 288.0656.
1182 (4) The department shall coordinate with each water
1183 management district, as necessary, to identify grant recipients
1184 in each district.
1185 (5) Beginning January 1, 2021, and each January 1
1186 thereafter, the department shall submit a report regarding the
1187 projects funded pursuant to this section to the Governor, the
1188 President of the Senate, and the Speaker of the House of
1189 Representatives.
1190 Section 11. Section 403.0855, Florida Statutes, is created
1191 to read:
1192 403.0855 Biosolids management.—The Legislature finds that
1193 it is in the best interest of this state to regulate biosolids
1194 management in order to minimize the migration of nutrients that
1195 impair waterbodies. The Legislature further finds that the
1196 expedited implementation of the recommendations of the Biosolids
1197 Technical Advisory Committee, including permitting according to
1198 site-specific application conditions, an increased inspection
1199 rate, groundwater and surface water monitoring protocols, and

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1200 nutrient management research, will improve biosolids management
1201 and assist in protecting this state's water resources and water
1202 quality. The department shall adopt rules for biosolids
1203 management. Rules adopted by the department pursuant to this
1204 section before the 2021 regular legislative session are not
1205 subject to s. 120.541(3). A municipality or county may enforce
1206 or extend an ordinance, a regulation, a resolution, a rule, a
1207 moratorium, or a policy, any of which was adopted before
1208 November 1, 2019, relating to the land application of Class B
1209 biosolids until the ordinance, regulation, resolution, rule,
1210 moratorium, or policy is repealed by the municipality or county.
1211 Section 12. Present subsections (7) through (10) of section
1212 403.086, Florida Statutes, are redesignated as subsections (8)
1213 through (11), respectively, a new subsection (7) is added to
1214 that section, and paragraph (c) of subsection (1) and subsection
1215 (2) of that section are amended, to read:
1216 403.086 Sewage disposal facilities; advanced and secondary
1217 waste treatment.—
1218 (1)
1219 (c) Notwithstanding any other provisions of this chapter or
1220 chapter 373, facilities for sanitary sewage disposal may not
1221 dispose of any wastes into Old Tampa Bay, Tampa Bay,
1222 Hillsborough Bay, Boca Ciega Bay, St. Joseph Sound, Clearwater
1223 Bay, Sarasota Bay, Little Sarasota Bay, Roberts Bay, Lemon Bay,
1224 or Charlotte Harbor Bay, Indian River Lagoon beginning July 1,
1225 2025, or into any river, stream, channel, canal, bay, bayou,
1226 sound, or other water tributary thereto, without providing
1227 advanced waste treatment, as defined in subsection (4), approved
1228 by the department. This paragraph shall not apply to facilities

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1229 which were permitted by February 1, 1987, and which discharge
1230 secondary treated effluent, followed by water hyacinth
1231 treatment, to tributaries of tributaries of the named waters; or
1232 to facilities permitted to discharge to the nontidally
1233 influenced portions of the Peace River.
1234 (2) Any facilities for sanitary sewage disposal shall
1235 provide for secondary waste treatment, a power outage
1236 contingency plan that mitigates the impacts of power outages on
1237 the utility's collection system and pump stations, and~~, in~~
1238 ~~addition thereto,~~ advanced waste treatment as deemed necessary
1239 and ordered by the Department of Environmental Protection.
1240 Failure to conform is ~~shall be~~ punishable by a civil penalty of
1241 $500 for each 24-hour day or fraction thereof that such failure
1242 is allowed to continue thereafter.
1243 (7) All facilities for sanitary sewage under subsection (2)
1244 which control a collection or transmission system of pipes and
1245 pumps to collect and transmit wastewater from domestic or
1246 industrial sources to the facility shall take steps to prevent
1247 sanitary sewer overflows or underground pipe leaks and ensure
1248 that collected wastewater reaches the facility for appropriate
1249 treatment. Facilities must use inflow and infiltration studies
1250 and leakage surveys to develop pipe assessment, repair, and
1251 replacement action plans that comply with department rule to
1252 limit, reduce, and eliminate leaks, seepages, or inputs into
1253 wastewater treatment systems' underground pipes. The pipe
1254 assessment, repair, and replacement action plans must be
1255 reported to the department. The facility action plan must
1256 include information regarding the annual expenditures dedicated
1257 to the inflow and infiltration studies and the required

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1258 replacement action plans, as well as expenditures that are
1259 dedicated to pipe assessment, repair, and replacement. The
1260 department shall adopt rules regarding the implementation of
1261 inflow and infiltration studies and leakage surveys; however,
1262 such department rules may not fix or revise utility rates or
1263 budgets. Any entity subject to this subsection and s.
1264 403.061(14) may submit one report to comply with both
1265 provisions. Substantial compliance with this subsection is
1266 evidence in mitigation for the purposes of assessing penalties
1267 pursuant to ss. 403.121 and 403.141.
1268 Section 13. Present subsections (4) through (10) of section
1269 403.087, Florida Statutes, are redesignated as subsections (5)
1270 through (11), respectively, and a new subsection (4) is added to
1271 that section, to read:
1272 403.087 Permits; general issuance; denial; revocation;
1273 prohibition; penalty.—
1274 (4) The department shall issue an operation permit for a
1275 domestic wastewater treatment facility other than a facility
1276 regulated under the National Pollutant Discharge Elimination
1277 System Program under s. 403.0885 for a term of up to 10 years if
1278 the facility is meeting the stated goals in its action plan
1279 adopted pursuant to s. 403.086(7).
1280 Section 14. Present subsections (3) and (4) of section
1281 403.088, Florida Statutes, are redesignated as subsections (4)
1282 and (5), respectively, a new subsection (3) is added to that
1283 section, and paragraph (c) of subsection (2) of that section is
1284 amended, to read:
1285 403.088 Water pollution operation permits; conditions.—
1286 (2)

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1287 (c) A permit shall:
1288 1. Specify the manner, nature, volume, and frequency of the
1289 discharge permitted;
1290 2. Require proper operation and maintenance of any
1291 pollution abatement facility by qualified personnel in
1292 accordance with standards established by the department;
1293 3. Require a deliberate, proactive approach to
1294 investigating or surveying a significant percentage of the
1295 domestic wastewater collection system throughout the duration of
1296 the permit to determine pipe integrity, which must be
1297 accomplished in an economically feasible manner. The permittee
1298 shall submit an annual report to the department which details
1299 facility revenues and expenditures in a manner prescribed by
1300 department rule. The report must detail any deviation of annual
1301 expenditures from identified system needs related to inflow and
1302 infiltration studies; model plans for pipe assessment, repair,
1303 and replacement; and pipe assessment, repair, and replacement
1304 required under s. 403.086(7). Substantial compliance with this
1305 subsection is evidence in mitigation for the purposes of
1306 assessing penalties pursuant to ss. 403.121 and 403.141;
1307 4. Contain such additional conditions, requirements, and
1308 restrictions as the department deems necessary to preserve and
1309 protect the quality of the receiving waters;
1310 5.~~4.~~ Be valid for the period of time specified therein; and
1311 6.~~5.~~ Constitute the state National Pollutant Discharge
1312 Elimination System permit when issued pursuant to the authority
1313 in s. 403.0885.
1314 (3) No later than March 1 of each year, the department
1315 shall submit a report to the Governor, the President of the

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1316 Senate, and the Speaker of the House of Representatives which
1317 identifies all domestic wastewater treatment facilities that
1318 experienced a sanitary sewer overflow in the preceding calendar
1319 year. The report must identify the utility name, operator,
1320 permitted capacity in annual average gallons per day, the number
1321 of overflows, and the total volume of sewage released, and, to
1322 the extent known and available, the volume of sewage recovered,
1323 the volume of sewage discharged to surface waters, and the cause
1324 of the sanitary sewer overflow, including whether it was caused
1325 by a third party. The department shall include with this report
1326 the annual report specified under subparagraph (2)(c)3. for each
1327 utility that experienced an overflow.
1328 Section 15. Subsection (6) of section 403.0891, Florida
1329 Statutes, is amended to read:
1330 403.0891 State, regional, and local stormwater management
1331 plans and programs.—The department, the water management
1332 districts, and local governments shall have the responsibility
1333 for the development of mutually compatible stormwater management
1334 programs.
1335 (6) The department and the Department of Economic
1336 Opportunity, in cooperation with local governments in the
1337 coastal zone, shall develop a model stormwater management
1338 program that could be adopted by local governments. The model
1339 program must contain model ordinances that target nutrient
1340 reduction practices and use green infrastructure. The model
1341 program shall contain dedicated funding options, including a
1342 stormwater utility fee system based upon an equitable unit cost
1343 approach. Funding options shall be designed to generate capital
1344 to retrofit existing stormwater management systems, build new

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1345 treatment systems, operate facilities, and maintain and service
1346 debt.
1347 Section 16. Paragraphs (b) and (g) of subsection (2),
1348 paragraph (b) of subsection (3), and subsections (8) and (9) of
1349 section 403.121, Florida Statutes, are amended to read:
1350 403.121 Enforcement; procedure; remedies.—The department
1351 shall have the following judicial and administrative remedies
1352 available to it for violations of this chapter, as specified in
1353 s. 403.161(1).
1354 (2) Administrative remedies:
1355 (b) If the department has reason to believe a violation has
1356 occurred, it may institute an administrative proceeding to order
1357 the prevention, abatement, or control of the conditions creating
1358 the violation or other appropriate corrective action. Except for
1359 violations involving hazardous wastes, asbestos, or underground
1360 injection, the department shall proceed administratively in all
1361 cases in which the department seeks administrative penalties
1362 that do not exceed $50,000 ~~$10,000~~ per assessment as calculated
1363 in accordance with subsections (3), (4), (5), (6), and (7).
1364 Pursuant to 42 U.S.C. s. 300g-2, the administrative penalty
1365 assessed pursuant to subsection (3), subsection (4), or
1366 subsection (5) against a public water system serving a
1367 population of more than 10,000 shall be not less than $1,000 per
1368 day per violation. The department shall not impose
1369 administrative penalties in excess of $50,000 ~~$10,000~~ in a
1370 notice of violation. The department shall not have more than one
1371 notice of violation seeking administrative penalties pending
1372 against the same party at the same time unless the violations
1373 occurred at a different site or the violations were discovered

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1374 by the department subsequent to the filing of a previous notice
1375 of violation.
1376 (g) Nothing herein shall be construed as preventing any
1377 other legal or administrative action in accordance with law.
1378 Nothing in this subsection shall limit the department's
1379 authority provided in ss. 403.131, 403.141, and this section to
1380 judicially pursue injunctive relief. When the department
1381 exercises its authority to judicially pursue injunctive relief,
1382 penalties in any amount up to the statutory maximum sought by
1383 the department must be pursued as part of the state court action
1384 and not by initiating a separate administrative proceeding. The
1385 department retains the authority to judicially pursue penalties
1386 in excess of $50,000 ~~$10,000~~ for violations not specifically
1387 included in the administrative penalty schedule, or for multiple
1388 or multiday violations alleged to exceed a total of $50,000
1389 ~~$10,000~~. The department also retains the authority provided in
1390 ss. 403.131, 403.141, and this section to judicially pursue
1391 injunctive relief and damages, if a notice of violation seeking
1392 the imposition of administrative penalties has not been issued.
1393 The department has the authority to enter into a settlement,
1394 either before or after initiating a notice of violation, and the
1395 settlement may include a penalty amount different from the
1396 administrative penalty schedule. Any case filed in state court
1397 because it is alleged to exceed a total of $50,000 ~~$10,000~~ in
1398 penalties may be settled in the court action for less than
1399 $50,000 ~~$10,000~~.
1400 (3) Except for violations involving hazardous wastes,
1401 asbestos, or underground injection, administrative penalties
1402 must be calculated according to the following schedule:

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1403 (b) For failure to obtain a required wastewater permit,
1404 other than a permit required for surface water discharge, the
1405 department shall assess a penalty of $2,000 ~~$1,000~~. For a
1406 domestic or industrial wastewater violation not involving a
1407 surface water or groundwater quality violation, the department
1408 shall assess a penalty of $4,000 ~~$2,000~~ for an unpermitted or
1409 unauthorized discharge or effluent-limitation exceedance or
1410 failure to comply with s. 403.061(14) or s. 403.086(7) or rules
1411 adopted thereunder. For an unpermitted or unauthorized discharge
1412 or effluent-limitation exceedance that resulted in a surface
1413 water or groundwater quality violation, the department shall
1414 assess a penalty of $10,000 ~~$5,000~~.
1415 (8) The direct economic benefit gained by the violator from
1416 the violation, where consideration of economic benefit is
1417 provided by Florida law or required by federal law as part of a
1418 federally delegated or approved program, shall be added to the
1419 scheduled administrative penalty. The total administrative
1420 penalty, including any economic benefit added to the scheduled
1421 administrative penalty, shall not exceed $20,000 ~~$10,000~~.
1422 (9) The administrative penalties assessed for any
1423 particular violation shall not exceed $10,000 ~~$5,000~~ against any
1424 one violator, unless the violator has a history of
1425 noncompliance, the economic benefit of the violation as
1426 described in subsection (8) exceeds $10,000 ~~$5,000~~, or there are
1427 multiday violations. The total administrative penalties shall
1428 not exceed $50,000 ~~$10,000~~ per assessment for all violations
1429 attributable to a specific person in the notice of violation.
1430 Section 17. Subsection (7) of section 403.1835, Florida
1431 Statutes, is amended to read:

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1432 403.1835 Water pollution control financial assistance.—
1433 (7) Eligible projects must be given priority according to
1434 the extent each project is intended to remove, mitigate, or
1435 prevent adverse effects on surface or ground water quality and
1436 public health. The relative costs of achieving environmental and
1437 public health benefits must be taken into consideration during
1438 the department's assignment of project priorities. The
1439 department shall adopt a priority system by rule. In developing
1440 the priority system, the department shall give priority to
1441 projects that:
1442 (a) Eliminate public health hazards;
1443 (b) Enable compliance with laws requiring the elimination
1444 of discharges to specific water bodies, including the
1445 requirements of s. 403.086(10) ~~s. 403.086(9)~~ regarding domestic
1446 wastewater ocean outfalls;
1447 (c) Assist in the implementation of total maximum daily
1448 loads adopted under s. 403.067;
1449 (d) Enable compliance with other pollution control
1450 requirements, including, but not limited to, toxics control,
1451 wastewater residuals management, and reduction of nutrients and
1452 bacteria;
1453 (e) Assist in the implementation of surface water
1454 improvement and management plans and pollutant load reduction
1455 goals developed under state water policy;
1456 (f) Promote reclaimed water reuse;
1457 (g) Eliminate failing onsite sewage treatment and disposal
1458 systems or those that are causing environmental damage; or
1459 (h) Reduce pollutants to and otherwise promote the
1460 restoration of Florida's surface and ground waters.

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1461 (i) Implement the requirements of ss. 403.086(7) and
1462 403.088(2)(c).
1463 (j) Promote efficiency by planning for the installation of
1464 wastewater transmission facilities to be constructed
1465 concurrently with other construction projects occurring within
1466 or along a transportation facility right-of-way.
1467 Section 18. Paragraph (b) of subsection (3) of section
1468 403.1838, Florida Statutes, is amended to read:
1469 403.1838 Small Community Sewer Construction Assistance
1470 Act.—
1471 (3)
1472 (b) The rules of the Environmental Regulation Commission
1473 must:
1474 1. Require that projects to plan, design, construct,
1475 upgrade, or replace wastewater collection, transmission,
1476 treatment, disposal, and reuse facilities be cost-effective,
1477 environmentally sound, permittable, and implementable.
1478 2. Require appropriate user charges, connection fees, and
1479 other charges sufficient to ensure the long-term operation,
1480 maintenance, and replacement of the facilities constructed under
1481 each grant.
1482 3. Require grant applications to be submitted on
1483 appropriate forms with appropriate supporting documentation, and
1484 require records to be maintained.
1485 4. Establish a system to determine eligibility of grant
1486 applications.
1487 5. Establish a system to determine the relative priority of
1488 grant applications. The system must consider public health
1489 protection and water pollution prevention or abatement and must

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1490 prioritize projects that plan for the installation of wastewater
1491 transmission facilities to be constructed concurrently with
1492 other construction projects occurring within or along a
1493 transportation facility right-of-way.
1494 6. Establish requirements for competitive procurement of
1495 engineering and construction services, materials, and equipment.
1496 7. Provide for termination of grants when program
1497 requirements are not met.
1498 Section 19. The Legislature determines and declares that
1499 this act fulfills an important state interest.
1500 Section 20. Effective July 1, 2021, subsection (5) of
1501 section 153.54, Florida Statutes, is amended to read:
1502 153.54 Preliminary report by county commissioners with
1503 respect to creation of proposed district.—Upon receipt of a
1504 petition duly signed by not less than 25 qualified electors who
1505 are also freeholders residing within an area proposed to be
1506 incorporated into a water and sewer district pursuant to this
1507 law and describing in general terms the proposed boundaries of
1508 such proposed district, the board of county commissioners if it
1509 shall deem it necessary and advisable to create and establish
1510 such proposed district for the purpose of constructing,
1511 establishing or acquiring a water system or a sewer system or
1512 both in and for such district (herein called “improvements”),
1513 shall first cause a preliminary report to be made which such
1514 report together with any other relevant or pertinent matters,
1515 shall include at least the following:
1516 (5) For the construction of a new proposed central sewerage
1517 system or the extension of an existing sewerage system that was
1518 not previously approved, the report shall include a study that

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1519 includes the available information from the Department of
1520 Environmental Protection ~~Health~~ on the history of onsite sewage
1521 treatment and disposal systems currently in use in the area and
1522 a comparison of the projected costs to the owner of a typical
1523 lot or parcel of connecting to and using the proposed sewerage
1524 system versus installing, operating, and properly maintaining an
1525 onsite sewage treatment and disposal system that is approved by
1526 the Department of Environmental Protection ~~Health~~ and that
1527 provides for the comparable level of environmental and health
1528 protection as the proposed central sewerage system;
1529 consideration of the local authority's obligations or reasonably
1530 anticipated obligations for water body cleanup and protection
1531 under state or federal programs, including requirements for
1532 water bodies listed under s. 303(d) of the Clean Water Act, Pub.
1533 L. No. 92-500, 33 U.S.C. ss. 1251 et seq.; and other factors
1534 deemed relevant by the local authority.
1535
1536 Such report shall be filed in the office of the clerk of the
1537 circuit court and shall be open for the inspection of any
1538 taxpayer, property owner, qualified elector or any other
1539 interested or affected person.
1540 Section 21. Effective July 1, 2021, paragraph (c) of
1541 subsection (2) of section 153.73, Florida Statutes, is amended
1542 to read:
1543 153.73 Assessable improvements; levy and payment of special
1544 assessments.—Any district may provide for the construction or
1545 reconstruction of assessable improvements as defined in s.
1546 153.52, and for the levying of special assessments upon
1547 benefited property for the payment thereof, under ~~the provisions~~

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1548 ~~of~~ this section.
1549 (2)
1550 (c) For the construction of a new proposed central sewerage
1551 system or the extension of an existing sewerage system that was
1552 not previously approved, the report shall include a study that
1553 includes the available information from the Department of
1554 Environmental Protection ~~Health~~ on the history of onsite sewage
1555 treatment and disposal systems currently in use in the area and
1556 a comparison of the projected costs to the owner of a typical
1557 lot or parcel of connecting to and using the proposed sewerage
1558 system versus installing, operating, and properly maintaining an
1559 onsite sewage treatment and disposal system that is approved by
1560 the Department of Environmental Protection ~~Health~~ and that
1561 provides for the comparable level of environmental and health
1562 protection as the proposed central sewerage system;
1563 consideration of the local authority's obligations or reasonably
1564 anticipated obligations for water body cleanup and protection
1565 under state or federal programs, including requirements for
1566 water bodies listed under s. 303(d) of the Clean Water Act, Pub.
1567 L. No. 92-500, 33 U.S.C. ss. 1251 et seq.; and other factors
1568 deemed relevant by the local authority.
1569 Section 22. Effective July 1, 2021, subsection (2) of
1570 section 163.3180, Florida Statutes, is amended to read:
1571 163.3180 Concurrency.—
1572 (2) Consistent with public health and safety, sanitary
1573 sewer, solid waste, drainage, adequate water supplies, and
1574 potable water facilities shall be in place and available to
1575 serve new development no later than the issuance by the local
1576 government of a certificate of occupancy or its functional

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1577 equivalent. Prior to approval of a building permit or its
1578 functional equivalent, the local government shall consult with
1579 the applicable water supplier to determine whether adequate
1580 water supplies to serve the new development will be available no
1581 later than the anticipated date of issuance by the local
1582 government of a certificate of occupancy or its functional
1583 equivalent. A local government may meet the concurrency
1584 requirement for sanitary sewer through the use of onsite sewage
1585 treatment and disposal systems approved by the Department of
1586 Environmental Protection ~~Health~~ to serve new development.
1587 Section 23. Effective July 1, 2021, subsection (3) of
1588 section 180.03, Florida Statutes, is amended to read:
1589 180.03 Resolution or ordinance proposing construction or
1590 extension of utility; objections to same.—
1591 (3) For the construction of a new proposed central sewerage
1592 system or the extension of an existing central sewerage system
1593 that was not previously approved, the report shall include a
1594 study that includes the available information from the
1595 Department of Environmental Protection ~~Health~~ on the history of
1596 onsite sewage treatment and disposal systems currently in use in
1597 the area and a comparison of the projected costs to the owner of
1598 a typical lot or parcel of connecting to and using the proposed
1599 central sewerage system versus installing, operating, and
1600 properly maintaining an onsite sewage treatment and disposal
1601 system that is approved by the Department of Environmental
1602 Protection ~~Health~~ and that provides for the comparable level of
1603 environmental and health protection as the proposed central
1604 sewerage system; consideration of the local authority's
1605 obligations or reasonably anticipated obligations for water body

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1606 cleanup and protection under state or federal programs,
1607 including requirements for water bodies listed under s. 303(d)
1608 of the Clean Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251
1609 et seq.; and other factors deemed relevant by the local
1610 authority. The results of such a study shall be included in the
1611 resolution or ordinance required under subsection (1).
1612 Section 24. Subsections (2), (3), and (6) of section
1613 311.105, Florida Statutes, are amended to read:
1614 311.105 Florida Seaport Environmental Management Committee;
1615 permitting; mitigation.—
1616 (2) Each application for a permit authorized pursuant to s.
1617 403.061(38) ~~s. 403.061(37)~~ must include:
1618 (a) A description of maintenance dredging activities to be
1619 conducted and proposed methods of dredged-material management.
1620 (b) A characterization of the materials to be dredged and
1621 the materials within dredged-material management sites.
1622 (c) A description of dredged-material management sites and
1623 plans.
1624 (d) A description of measures to be undertaken, including
1625 environmental compliance monitoring, to minimize adverse
1626 environmental effects of maintenance dredging and dredged-
1627 material management.
1628 (e) Such scheduling information as is required to
1629 facilitate state supplementary funding of federal maintenance
1630 dredging and dredged-material management programs consistent
1631 with beach restoration criteria of the Department of
1632 Environmental Protection.
1633 (3) Each application for a permit authorized pursuant to s.
1634 403.061(39) ~~s. 403.061(38)~~ must include ~~the provisions of~~

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1635 paragraphs (2)(b)-(e) and the following:
1636 (a) A description of dredging and dredged-material
1637 management and other related activities associated with port
1638 development, including the expansion of navigation channels,
1639 dredged-material management sites, port harbors, turning basins,
1640 harbor berths, and associated facilities.
1641 (b) A discussion of environmental mitigation as is proposed
1642 for dredging and dredged-material management for port
1643 development, including the expansion of navigation channels,
1644 dredged-material management sites, port harbors, turning basins,
1645 harbor berths, and associated facilities.
1646 (6) Dredged-material management activities authorized
1647 pursuant to s. 403.061(38) ~~s. 403.061(37)~~ or s. 403.061(39) ~~(38)~~
1648 shall be incorporated into port master plans developed pursuant
1649 to s. 163.3178(2)(k).
1650 Section 25. Paragraph (d) of subsection (1) of section
1651 327.46, Florida Statutes, is amended to read:
1652 327.46 Boating-restricted areas.—
1653 (1) Boating-restricted areas, including, but not limited
1654 to, restrictions of vessel speeds and vessel traffic, may be
1655 established on the waters of this state for any purpose
1656 necessary to protect the safety of the public if such
1657 restrictions are necessary based on boating accidents,
1658 visibility, hazardous currents or water levels, vessel traffic
1659 congestion, or other navigational hazards or to protect
1660 seagrasses on privately owned submerged lands.
1661 (d) Owners of private submerged lands that are adjacent to
1662 Outstanding Florida Waters, as defined in s. 403.061(28) ~~s.~~
1663 ~~403.061(27)~~, or an aquatic preserve established under ss.

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1664 258.39-258.399 may request that the commission establish
1665 boating-restricted areas solely to protect any seagrass and
1666 contiguous seagrass habitat within their private property
1667 boundaries from seagrass scarring due to propeller dredging.
1668 Owners making a request pursuant to this paragraph must
1669 demonstrate to the commission clear ownership of the submerged
1670 lands. The commission shall adopt rules to implement this
1671 paragraph, including, but not limited to, establishing an
1672 application process and criteria for meeting the requirements of
1673 this paragraph. Each approved boating-restricted area shall be
1674 established by commission rule. For marking boating-restricted
1675 zones established pursuant to this paragraph, owners of
1676 privately submerged lands shall apply to the commission for a
1677 uniform waterway marker permit in accordance with ss. 327.40 and
1678 327.41, and shall be responsible for marking the boating-
1679 restricted zone in accordance with the terms of the permit.
1680 Section 26. Paragraph (d) of subsection (3) of section
1681 373.250, Florida Statutes, is amended to read:
1682 373.250 Reuse of reclaimed water.—
1683 (3)
1684 (d) The South Florida Water Management District shall
1685 require the use of reclaimed water made available by the
1686 elimination of wastewater ocean outfall discharges as provided
1687 for in s. 403.086(10) ~~s. 403.086(9)~~ in lieu of surface water or
1688 groundwater when the use of reclaimed water is available; is
1689 environmentally, economically, and technically feasible; and is
1690 of such quality and reliability as is necessary to the user.
1691 Such reclaimed water may also be required in lieu of other
1692 alternative sources. In determining whether to require such

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1693 reclaimed water in lieu of other alternative sources, the water
1694 management district shall consider existing infrastructure
1695 investments in place or obligated to be constructed by an
1696 executed contract or similar binding agreement as of July 1,
1697 2011, for the development of other alternative sources.
1698 Section 27. Subsection (9) of section 373.414, Florida
1699 Statutes, is amended to read:
1700 373.414 Additional criteria for activities in surface
1701 waters and wetlands.—
1702 (9) The department and the governing boards, on or before
1703 July 1, 1994, shall adopt rules to incorporate ~~the provisions of~~
1704 this section, relying primarily on the existing rules of the
1705 department and the water management districts, into the rules
1706 governing the management and storage of surface waters. Such
1707 rules shall seek to achieve a statewide, coordinated and
1708 consistent permitting approach to activities regulated under
1709 this part. Variations in permitting criteria in the rules of
1710 individual water management districts or the department shall
1711 only be provided to address differing physical or natural
1712 characteristics. Such rules adopted pursuant to this subsection
1713 shall include the special criteria adopted pursuant to s.
1714 403.061(30) ~~s. 403.061(29)~~ and may include the special criteria
1715 adopted pursuant to s. 403.061(35) ~~s. 403.061(34)~~. Such rules
1716 shall include a provision requiring that a notice of intent to
1717 deny or a permit denial based upon this section shall contain an
1718 explanation of the reasons for such denial and an explanation,
1719 in general terms, of what changes, if any, are necessary to
1720 address such reasons for denial. Such rules may establish
1721 exemptions and general permits, if such exemptions and general

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1722 permits do not allow significant adverse impacts to occur
1723 individually or cumulatively. Such rules may require submission
1724 of proof of financial responsibility which may include the
1725 posting of a bond or other form of surety prior to the
1726 commencement of construction to provide reasonable assurance
1727 that any activity permitted pursuant to this section, including
1728 any mitigation for such permitted activity, will be completed in
1729 accordance with the terms and conditions of the permit once the
1730 construction is commenced. Until rules adopted pursuant to this
1731 subsection become effective, existing rules adopted under this
1732 part and rules adopted pursuant to the authority of ss. 403.91-
1733 403.929 shall be deemed authorized under this part and shall
1734 remain in full force and effect. Neither the department nor the
1735 governing boards are limited or prohibited from amending any
1736 such rules.
1737 Section 28. Paragraph (b) of subsection (4) of section
1738 373.705, Florida Statutes, is amended to read:
1739 373.705 Water resource development; water supply
1740 development.—
1741 (4)
1742 (b) Water supply development projects that meet the
1743 criteria in paragraph (a) and that meet one or more of the
1744 following additional criteria shall be given first consideration
1745 for state or water management district funding assistance:
1746 1. The project brings about replacement of existing sources
1747 in order to help implement a minimum flow or minimum water
1748 level;
1749 2. The project implements reuse that assists in the
1750 elimination of domestic wastewater ocean outfalls as provided in

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1751 s. 403.086(10) ~~s. 403.086(9)~~; or
1752 3. The project reduces or eliminates the adverse effects of
1753 competition between legal users and the natural system.
1754 Section 29. Paragraph (f) of subsection (8) of section
1755 373.707, Florida Statutes, is amended to read:
1756 373.707 Alternative water supply development.—
1757 (8)
1758 (f) The governing boards shall determine those projects
1759 that will be selected for financial assistance. The governing
1760 boards may establish factors to determine project funding;
1761 however, significant weight shall be given to the following
1762 factors:
1763 1. Whether the project provides substantial environmental
1764 benefits by preventing or limiting adverse water resource
1765 impacts.
1766 2. Whether the project reduces competition for water
1767 supplies.
1768 3. Whether the project brings about replacement of
1769 traditional sources in order to help implement a minimum flow or
1770 level or a reservation.
1771 4. Whether the project will be implemented by a consumptive
1772 use permittee that has achieved the targets contained in a goal-
1773 based water conservation program approved pursuant to s.
1774 373.227.
1775 5. The quantity of water supplied by the project as
1776 compared to its cost.
1777 6. Projects in which the construction and delivery to end
1778 users of reuse water is a major component.
1779 7. Whether the project will be implemented by a

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1780 multijurisdictional water supply entity or regional water supply
1781 authority.
1782 8. Whether the project implements reuse that assists in the
1783 elimination of domestic wastewater ocean outfalls as provided in
1784 s. 403.086(10) ~~s. 403.086(9)~~.
1785 9. Whether the county or municipality, or the multiple
1786 counties or municipalities, in which the project is located has
1787 implemented a high-water recharge protection tax assessment
1788 program as provided in s. 193.625.
1789 Section 30. Subsection (4) of section 373.709, Florida
1790 Statutes, is amended to read:
1791 373.709 Regional water supply planning.—
1792 (4) The South Florida Water Management District shall
1793 include in its regional water supply plan water resource and
1794 water supply development projects that promote the elimination
1795 of wastewater ocean outfalls as provided in s. 403.086(10) ~~s.~~
1796 ~~403.086(9)~~.
1797 Section 31. Subsection (3) of section 373.807, Florida
1798 Statutes, is amended to read:
1799 373.807 Protection of water quality in Outstanding Florida
1800 Springs.—By July 1, 2016, the department shall initiate
1801 assessment, pursuant to s. 403.067(3), of Outstanding Florida
1802 Springs or spring systems for which an impairment determination
1803 has not been made under the numeric nutrient standards in effect
1804 for spring vents. Assessments must be completed by July 1, 2018.
1805 (3) As part of a basin management action plan that includes
1806 an Outstanding Florida Spring, the department, ~~the Department of~~
1807 ~~Health,~~ relevant local governments, and relevant local public
1808 and private wastewater utilities shall develop an onsite sewage

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1809 treatment and disposal system remediation plan for a spring if
1810 the department determines onsite sewage treatment and disposal
1811 systems within a priority focus area contribute at least 20
1812 percent of nonpoint source nitrogen pollution or if the
1813 department determines remediation is necessary to achieve the
1814 total maximum daily load. The plan shall identify cost-effective
1815 and financially feasible projects necessary to reduce the
1816 nutrient impacts from onsite sewage treatment and disposal
1817 systems and shall be completed and adopted as part of the basin
1818 management action plan no later than the first 5-year milestone
1819 required by subparagraph (1)(b)8. The department is the lead
1820 agency in coordinating the preparation of and the adoption of
1821 the plan. The department shall:
1822 (a) Collect and evaluate credible scientific information on
1823 the effect of nutrients, particularly forms of nitrogen, on
1824 springs and springs systems; and
1825 (b) Develop a public education plan to provide area
1826 residents with reliable, understandable information about onsite
1827 sewage treatment and disposal systems and springs.
1828
1829 In addition to the requirements in s. 403.067, the plan shall
1830 include options for repair, upgrade, replacement, drainfield
1831 modification, addition of effective nitrogen reducing features,
1832 connection to a central sewerage system, or other action for an
1833 onsite sewage treatment and disposal system or group of systems
1834 within a priority focus area that contribute at least 20 percent
1835 of nonpoint source nitrogen pollution or if the department
1836 determines remediation is necessary to achieve a total maximum
1837 daily load. For these systems, the department shall include in

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1838 the plan a priority ranking for each system or group of systems
1839 that requires remediation and shall award funds to implement the
1840 remediation projects contingent on an appropriation in the
1841 General Appropriations Act, which may include all or part of the
1842 costs necessary for repair, upgrade, replacement, drainfield
1843 modification, addition of effective nitrogen reducing features,
1844 initial connection to a central sewerage system, or other
1845 action. In awarding funds, the department may consider expected
1846 nutrient reduction benefit per unit cost, size and scope of
1847 project, relative local financial contribution to the project,
1848 and the financial impact on property owners and the community.
1849 The department may waive matching funding requirements for
1850 proposed projects within an area designated as a rural area of
1851 opportunity under s. 288.0656.
1852 Section 32. Paragraph (k) of subsection (1) of section
1853 376.307, Florida Statutes, is amended to read:
1854 376.307 Water Quality Assurance Trust Fund.—
1855 (1) The Water Quality Assurance Trust Fund is intended to
1856 serve as a broad-based fund for use in responding to incidents
1857 of contamination that pose a serious danger to the quality of
1858 groundwater and surface water resources or otherwise pose a
1859 serious danger to the public health, safety, or welfare. Moneys
1860 in this fund may be used:
1861 (k) For funding activities described in s. 403.086(10) ~~s.~~
1862 ~~403.086(9)~~ which are authorized for implementation under the
1863 Leah Schad Memorial Ocean Outfall Program.
1864 Section 33. Paragraph (i) of subsection (2), paragraph (b)
1865 of subsection (4), paragraph (j) of subsection (7), and
1866 paragraph (a) of subsection (9) of section 380.0552, Florida

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1867 Statutes, are amended to read:
1868 380.0552 Florida Keys Area; protection and designation as
1869 area of critical state concern.—
1870 (2) LEGISLATIVE INTENT.—It is the intent of the Legislature
1871 to:
1872 (i) Protect and improve the nearshore water quality of the
1873 Florida Keys through federal, state, and local funding of water
1874 quality improvement projects, including the construction and
1875 operation of wastewater management facilities that meet the
1876 requirements of ss. 381.0065(4)(l) and 403.086(11) ~~403.086(10)~~,
1877 as applicable.
1878 (4) REMOVAL OF DESIGNATION.—
1879 (b) Beginning November 30, 2010, the state land planning
1880 agency shall annually submit a written report to the
1881 Administration Commission describing the progress of the Florida
1882 Keys Area toward completing the work program tasks specified in
1883 commission rules. The land planning agency shall recommend
1884 removing the Florida Keys Area from being designated as an area
1885 of critical state concern to the commission if it determines
1886 that:
1887 1. All of the work program tasks have been completed,
1888 including construction of, operation of, and connection to
1889 central wastewater management facilities pursuant to s.
1890 403.086(11) ~~s. 403.086(10)~~ and upgrade of onsite sewage
1891 treatment and disposal systems pursuant to s. 381.0065(4)(l);
1892 2. All local comprehensive plans and land development
1893 regulations and the administration of such plans and regulations
1894 are adequate to protect the Florida Keys Area, fulfill the
1895 legislative intent specified in subsection (2), and are

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1896 consistent with and further the principles guiding development;
1897 and
1898 3. A local government has adopted a resolution at a public
1899 hearing recommending the removal of the designation.
1900 (7) PRINCIPLES FOR GUIDING DEVELOPMENT.—State, regional,
1901 and local agencies and units of government in the Florida Keys
1902 Area shall coordinate their plans and conduct their programs and
1903 regulatory activities consistent with the principles for guiding
1904 development as specified in chapter 27F-8, Florida
1905 Administrative Code, as amended effective August 23, 1984, which
1906 is adopted and incorporated herein by reference. For the
1907 purposes of reviewing the consistency of the adopted plan, or
1908 any amendments to that plan, with the principles for guiding
1909 development, and any amendments to the principles, the
1910 principles shall be construed as a whole and specific provisions
1911 may not be construed or applied in isolation from the other
1912 provisions. However, the principles for guiding development are
1913 repealed 18 months from July 1, 1986. After repeal, any plan
1914 amendments must be consistent with the following principles:
1915 (j) Ensuring the improvement of nearshore water quality by
1916 requiring the construction and operation of wastewater
1917 management facilities that meet the requirements of ss.
1918 381.0065(4)(l) and s. 403.086(11) ~~403.086(10)~~, as applicable,
1919 and by directing growth to areas served by central wastewater
1920 treatment facilities through permit allocation systems.
1921 (9) MODIFICATION TO PLANS AND REGULATIONS.—
1922 (a) Any land development regulation or element of a local
1923 comprehensive plan in the Florida Keys Area may be enacted,
1924 amended, or rescinded by a local government, but the enactment,

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1925 amendment, or rescission becomes effective only upon approval by
1926 the state land planning agency. The state land planning agency
1927 shall review the proposed change to determine if it is in
1928 compliance with the principles for guiding development specified
1929 in chapter 27F-8, Florida Administrative Code, as amended
1930 effective August 23, 1984, and must approve or reject the
1931 requested changes within 60 days after receipt. Amendments to
1932 local comprehensive plans in the Florida Keys Area must also be
1933 reviewed for compliance with the following:
1934 1. Construction schedules and detailed capital financing
1935 plans for wastewater management improvements in the annually
1936 adopted capital improvements element, and standards for the
1937 construction of wastewater treatment and disposal facilities or
1938 collection systems that meet or exceed the criteria in s.
1939 403.086(11) ~~s. 403.086(10)~~ for wastewater treatment and disposal
1940 facilities or s. 381.0065(4)(l) for onsite sewage treatment and
1941 disposal systems.
1942 2. Goals, objectives, and policies to protect public safety
1943 and welfare in the event of a natural disaster by maintaining a
1944 hurricane evacuation clearance time for permanent residents of
1945 no more than 24 hours. The hurricane evacuation clearance time
1946 shall be determined by a hurricane evacuation study conducted in
1947 accordance with a professionally accepted methodology and
1948 approved by the state land planning agency.
1949 Section 34. Effective July 1, 2021, subsections (7) and
1950 (18) of section 381.006, Florida Statutes, are amended to read:
1951 381.006 Environmental health.—The department shall conduct
1952 an environmental health program as part of fulfilling the
1953 state’s public health mission. The purpose of this program is to

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1954 detect and prevent disease caused by natural and manmade factors
1955 in the environment. The environmental health program shall
1956 include, but not be limited to:
1957 ~~(7) An onsite sewage treatment and disposal function.~~
1958 (17) ~~(18)~~ A food service inspection function for domestic
1959 violence centers that are certified by the Department of
1960 Children and Families and monitored by the Florida Coalition
1961 Against Domestic Violence under part XII of chapter 39 and group
1962 care homes as described in subsection (15) ~~(16)~~, which shall be
1963 conducted annually and be limited to the requirements in
1964 department rule applicable to community-based residential
1965 facilities with five or fewer residents.
1966
1967 The department may adopt rules to carry out the provisions of
1968 this section.
1969 Section 35. Effective July 1, 2021, subsection (1) of
1970 section 381.0061, Florida Statutes, is amended to read:
1971 381.0061 Administrative fines.—
1972 (1) In addition to any administrative action authorized by
1973 chapter 120 or by other law, the department may impose a fine,
1974 which may ~~shall~~ not exceed $500 for each violation, for a
1975 violation of s. 381.006(15) ~~s. 381.006(16)~~, s. 381.0065, s.
1976 381.0066, s. 381.0072, or part III of chapter 489, for a
1977 violation of any rule adopted under this chapter, or for a
1978 violation of ~~any of the provisions of~~ chapter 386. Notice of
1979 intent to impose such fine shall be given by the department to
1980 the alleged violator. Each day that a violation continues may
1981 constitute a separate violation.
1982 Section 36. Effective July 1, 2021, subsection (1) of

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1983 section 381.0064, Florida Statutes, is amended to read:
1984 381.0064 Continuing education courses for persons
1985 installing or servicing septic tanks.—
1986 (1) The Department of Environmental Protection ~~Health~~ shall
1987 establish a program for continuing education which meets the
1988 purposes of ss. 381.0101 and 489.554 regarding the public health
1989 and environmental effects of onsite sewage treatment and
1990 disposal systems and any other matters the department determines
1991 desirable for the safe installation and use of onsite sewage
1992 treatment and disposal systems. The department may charge a fee
1993 to cover the cost of such program.
1994 Section 37. Effective July 1, 2021, paragraph (d) of
1995 subsection (7), subsection (8), and paragraphs (b), (c), and (d)
1996 of subsection (9) of section 381.00651, Florida Statutes, are
1997 amended to read:
1998 381.00651 Periodic evaluation and assessment of onsite
1999 sewage treatment and disposal systems.—
2000 (7) The following procedures shall be used for conducting
2001 evaluations:
2002 (d) *Assessment procedure.*—All evaluation procedures used by
2003 a qualified contractor shall be documented in the environmental
2004 health database of the Department of Environmental Protection
2005 ~~Health~~. The qualified contractor shall provide a copy of a
2006 written, signed evaluation report to the property owner upon
2007 completion of the evaluation and to the county health department
2008 within 30 days after the evaluation. The report must ~~shall~~
2009 contain the name and license number of the company providing the
2010 report. A copy of the evaluation report shall be retained by the
2011 local county health department for a minimum of 5 years and

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2012 until a subsequent inspection report is filed. The front cover
2013 of the report must identify any system failure and include a
2014 clear and conspicuous notice to the owner that the owner has a
2015 right to have any remediation of the failure performed by a
2016 qualified contractor other than the contractor performing the
2017 evaluation. The report must further identify any crack, leak,
2018 improper fit, or other defect in the tank, manhole, or lid, and
2019 any other damaged or missing component; any sewage or effluent
2020 visible on the ground or discharging to a ditch or other surface
2021 water body; any downspout, stormwater, or other source of water
2022 directed onto or toward the system; and any other maintenance
2023 need or condition of the system at the time of the evaluation
2024 which, in the opinion of the qualified contractor, would
2025 possibly interfere with or restrict any future repair or
2026 modification to the existing system. The report shall conclude
2027 with an overall assessment of the fundamental operational
2028 condition of the system.
2029 (8) The county health department, in coordination with the
2030 department, shall administer any evaluation program on behalf of
2031 a county, or a municipality within the county, that has adopted
2032 an evaluation program pursuant to this section. In order to
2033 administer the evaluation program, the county or municipality,
2034 in consultation with the county health department, may develop a
2035 reasonable fee schedule to be used solely to pay for the costs
2036 of administering the evaluation program. Such a fee schedule
2037 shall be identified in the ordinance that adopts the evaluation
2038 program. When arriving at a reasonable fee schedule, the
2039 estimated annual revenues to be derived from fees may not exceed
2040 reasonable estimated annual costs of the program. Fees shall be

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2041 assessed to the system owner during an inspection and separately
2042 identified on the invoice of the qualified contractor. Fees
2043 shall be remitted by the qualified contractor to the county
2044 health department. The county health department's administrative
2045 responsibilities include the following:
2046 (a) Providing a notice to the system owner at least 60 days
2047 before the system is due for an evaluation. The notice may
2048 include information on the proper maintenance of onsite sewage
2049 treatment and disposal systems.
2050 (b) In consultation with the department ~~of Health~~,
2051 providing uniform disciplinary procedures and penalties for
2052 qualified contractors who do not comply with the requirements of
2053 the adopted ordinance, including, but not limited to, failure to
2054 provide the evaluation report as required in this subsection to
2055 the system owner and the county health department. Only the
2056 county health department may assess penalties against system
2057 owners for failure to comply with the adopted ordinance,
2058 consistent with existing requirements of law.
2059 (9)
2060 (b) Upon receipt of the notice under paragraph (a), the
2061 department ~~of Environmental Protection~~ shall, within existing
2062 resources, notify the county or municipality of the potential
2063 use of, and access to, program funds under the Clean Water State
2064 Revolving Fund or s. 319 of the Clean Water Act, provide
2065 guidance in the application process to receive such moneys, and
2066 provide advice and technical assistance to the county or
2067 municipality on how to establish a low-interest revolving loan
2068 program or how to model a revolving loan program after the low-
2069 interest loan program of the Clean Water State Revolving Fund.

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2070 This paragraph does not obligate the department ~~of Environmental~~
2071 ~~Protection~~ to provide any county or municipality with money to
2072 fund such programs.
2073 (c) The department ~~of Health~~ may not adopt any rule that
2074 alters ~~the provisions of~~ this section.
2075 (d) The department ~~of Health~~ must allow county health
2076 departments and qualified contractors access to the
2077 environmental health database to track relevant information and
2078 assimilate data from assessment and evaluation reports of the
2079 overall condition of onsite sewage treatment and disposal
2080 systems. The environmental health database must be used by
2081 contractors to report each service and evaluation event and by a
2082 county health department to notify owners of onsite sewage
2083 treatment and disposal systems when evaluations are due. Data
2084 and information must be recorded and updated as service and
2085 evaluations are conducted and reported.
2086 Section 38. Paragraph (g) of subsection (1) of section
2087 381.0101, Florida Statutes, is amended to read:
2088 381.0101 Environmental health professionals.—
2089 (1) DEFINITIONS.—As used in this section:
2090 (g) “Primary environmental health program” means those
2091 programs determined by the department to be essential for
2092 providing basic environmental and sanitary protection to the
2093 public. At a minimum, these programs shall include food
2094 protection program work ~~and onsite sewage treatment and disposal~~
2095 ~~system evaluations~~.
2096 Section 39. Section 403.08601, Florida Statutes, is amended
2097 to read:
2098 403.08601 Leah Schad Memorial Ocean Outfall Program.—The

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2099 Legislature declares that as funds become available the state
2100 may assist the local governments and agencies responsible for
2101 implementing the Leah Schad Memorial Ocean Outfall Program
2102 pursuant to s. 403.086(10) ~~s. 403.086(9)~~. Funds received from
2103 other sources provided for in law, the General Appropriations
2104 Act, from gifts designated for implementation of the plan from
2105 individuals, corporations, or other entities, or federal funds
2106 appropriated by Congress for implementation of the plan, may be
2107 deposited into an account of the Water Quality Assurance Trust
2108 Fund.
2109 Section 40. Section 403.0871, Florida Statutes, is amended
2110 to read:
2111 403.0871 Florida Permit Fee Trust Fund.—There is
2112 established within the department a nonlapsing trust fund to be
2113 known as the "Florida Permit Fee Trust Fund." All funds received
2114 from applicants for permits pursuant to ss. 161.041, 161.053,
2115 161.0535, 403.087(7) ~~403.087(6)~~, and 403.861(7)(a) shall be
2116 deposited in the Florida Permit Fee Trust Fund and shall be used
2117 by the department with the advice and consent of the Legislature
2118 to supplement appropriations and other funds received by the
2119 department for the administration of its responsibilities under
2120 this chapter and chapter 161. In no case shall funds from the
2121 Florida Permit Fee Trust Fund be used for salary increases
2122 without the approval of the Legislature.
2123 Section 41. Paragraph (a) of subsection (11) of section
2124 403.0872, Florida Statutes, is amended to read:
2125 403.0872 Operation permits for major sources of air
2126 pollution; annual operation license fee.—Provided that program
2127 approval pursuant to 42 U.S.C. s. 7661a has been received from

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2128 the United States Environmental Protection Agency, beginning
2129 January 2, 1995, each major source of air pollution, including
2130 electrical power plants certified under s. 403.511, must obtain
2131 from the department an operation permit for a major source of
2132 air pollution under this section. This operation permit is the
2133 only department operation permit for a major source of air
2134 pollution required for such source; provided, at the applicant's
2135 request, the department shall issue a separate acid rain permit
2136 for a major source of air pollution that is an affected source
2137 within the meaning of 42 U.S.C. s. 7651a(1). Operation permits
2138 for major sources of air pollution, except general permits
2139 issued pursuant to s. 403.814, must be issued in accordance with
2140 the procedures contained in this section and in accordance with
2141 chapter 120; however, to the extent that chapter 120 is
2142 inconsistent with ~~the provisions of~~ this section, the procedures
2143 contained in this section prevail.
2144 (11) Each major source of air pollution permitted to
2145 operate in this state must pay between January 15 and April 1 of
2146 each year, upon written notice from the department, an annual
2147 operation license fee in an amount determined by department
2148 rule. The annual operation license fee shall be terminated
2149 immediately in the event the United States Environmental
2150 Protection Agency imposes annual fees solely to implement and
2151 administer the major source air-operation permit program in
2152 Florida under 40 C.F.R. s. 70.10(d).
2153 (a) The annual fee must be assessed based upon the source's
2154 previous year's emissions and must be calculated by multiplying
2155 the applicable annual operation license fee factor times the
2156 tons of each regulated air pollutant actually emitted, as

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2157 calculated in accordance with the department’s emissions
2158 computation and reporting rules. The annual fee shall only apply
2159 to those regulated pollutants, except carbon monoxide and
2160 greenhouse gases, for which an allowable numeric emission
2161 limiting standard is specified in the source’s most recent
2162 construction or operation permit; provided, however, that:
2163 1. The license fee factor is $25 or another amount
2164 determined by department rule which ensures that the revenue
2165 provided by each year’s operation license fees is sufficient to
2166 cover all reasonable direct and indirect costs of the major
2167 stationary source air-operation permit program established by
2168 this section. The license fee factor may be increased beyond $25
2169 only if the secretary of the department affirmatively finds that
2170 a shortage of revenue for support of the major stationary source
2171 air-operation permit program will occur in the absence of a fee
2172 factor adjustment. The annual license fee factor may never
2173 exceed $35.
2174 2. The amount of each regulated air pollutant in excess of
2175 4,000 tons per year emitted by any source, or group of sources
2176 belonging to the same Major Group as described in the Standard
2177 Industrial Classification Manual, 1987, may not be included in
2178 the calculation of the fee. Any source, or group of sources,
2179 which does not emit any regulated air pollutant in excess of
2180 4,000 tons per year, is allowed a one-time credit not to exceed
2181 25 percent of the first annual licensing fee for the prorated
2182 portion of existing air-operation permit application fees
2183 remaining upon commencement of the annual licensing fees.
2184 3. If the department has not received the fee by March 1 of
2185 the calendar year, the permittee must be sent a written warning

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2186 of the consequences for failing to pay the fee by April 1. If
2187 the fee is not postmarked by April 1 of the calendar year, the
2188 department shall impose, in addition to the fee, a penalty of 50
2189 percent of the amount of the fee, plus interest on such amount
2190 computed in accordance with s. 220.807. The department may not
2191 impose such penalty or interest on any amount underpaid,
2192 provided that the permittee has timely remitted payment of at
2193 least 90 percent of the amount determined to be due and remits
2194 full payment within 60 days after receipt of notice of the
2195 amount underpaid. The department may waive the collection of
2196 underpayment and may ~~shall~~ not be required to refund overpayment
2197 of the fee, if the amount due is less than 1 percent of the fee,
2198 up to $50. The department may revoke any major air pollution
2199 source operation permit if it finds that the permitholder has
2200 failed to timely pay any required annual operation license fee,
2201 penalty, or interest.
2202 4. Notwithstanding the computational provisions of this
2203 subsection, the annual operation license fee for any source
2204 subject to this section may ~~shall~~ not be less than $250, except
2205 that the annual operation license fee for sources permitted
2206 solely through general permits issued under s. 403.814 may ~~shall~~
2207 not exceed $50 per year.
2208 5. Notwithstanding s. 403.087(7)(a)5.a., which authorizes
2209 ~~the provisions of s. 403.087(6)(a)5.a., authorizing~~ air
2210 pollution construction permit fees, the department may not
2211 require such fees for changes or additions to a major source of
2212 air pollution permitted pursuant to this section, unless the
2213 activity triggers permitting requirements under Title I, Part C
2214 or Part D, of the federal Clean Air Act, 42 U.S.C. ss. 7470-

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2215 7514a. Costs to issue and administer such permits shall be
2216 considered direct and indirect costs of the major stationary
2217 source air-operation permit program under s. 403.0873. The
2218 department shall, however, require fees pursuant to s.
2219 403.087(7)(a)5.a. ~~the provisions of s. 403.087(6)(a)5.a.~~ for the
2220 construction of a new major source of air pollution that will be
2221 subject to the permitting requirements of this section once
2222 constructed and for activities triggering permitting
2223 requirements under Title I, Part C or Part D, of the federal
2224 Clean Air Act, 42 U.S.C. ss. 7470-7514a.
2225
2226 ========== T I T L E A M E N D M E N T ==========
2227 And the title is amended as follows:
2228 Delete lines 104 - 113
2229 and insert:
2230 amending s. 403.121, F.S.; increasing and providing
2231 administrative penalties; amending s. 403.1835, F.S.;
2232 conforming a cross-reference; requiring the department
2233 to give priority for water pollution control financial
2234 assistance to projects that implement certain
2235 provisions and that promote efficiency; amending s.
2236 403.1838, F.S.; revising requirements for the
2237 prioritization of grant applications within the Small
2238 Community Sewer Construction Assistance Act; providing
2239 a declaration of important state interest; amending
2240 ss. 153.54, 153.73, 163.3180, 180.03, 311.105, 327.46,
2241 373.250, 373.414, 373.705, 373.707, 373.709, 373.807,
2242 376.307, 380.0552, 381.006, 381.0061, 381.0064,
2243 381.00651, 381.0101, 403.08601, 403.0871, 403.0872,

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2244 403.707, 403.861, 489.551, and 590.02, F.S.;

By the Committee on Community Affairs; and Senator Mayfield

578-02008A-20 2020712c1

A bill to be entitled

An act relating to water quality improvements; providing a short title; requiring the Department Health to provide a specified report to the Governor and the Legislature by a specified date; requiring the Department of Health and the Department of Environmental Protection to submit to the Governor and the Legislature, by a specified date, certain recommendations relating to the transfer of the Onsite Sewage Program; requiring the departments to enter into an interagency agreement that meets certain requirements by a specified date; transferring the Onsite Sewage Program within the Department of Health to the Department of Environmental Protection by a type two transfer by a specified date; providing that certain employees retain and transfer certain types of leave upon the transfer; amending s. 373.4131, F.S.; requiring the Department of Environmental Protection to include stormwater structural controls inspections as part of its regular staff training; requiring the department and the water management districts to adopt rules regarding stormwater design and operation by a specified date; amending s. 381.0065, F.S.; conforming provisions to changes made by the act; requiring the department to adopt rules for the location of onsite sewage treatment and disposal systems and complete such rulemaking by a specified date; requiring the department to evaluate certain data relating to the self-certification program and provide the Legislature

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578-02008A-20 2020712c1

with recommendations by a specified date; providing that certain provisions relating to existing setback requirements are applicable to permits only until the adoption of certain rules by the department; creating s. 381.00652, F.S.; creating an onsite sewage treatment and disposal systems technical advisory committee within the department; providing the duties and membership of the committee; requiring the committee to submit a report to the Governor and the Legislature by a specified date; providing for the expiration of the committee; repealing s. 381.0068, F.S., relating to a technical review and advisory panel; amending s. 403.061, F.S.; requiring the department to adopt rules relating to the underground pipes of wastewater collection systems; requiring public utilities or their affiliated companies that hold or are seeking a wastewater discharge permit to file certain reports and data with the department; creating s. 403.0616, F.S.; requiring the department, subject to legislative appropriation, to establish a real-time water quality monitoring program; encouraging the formation of public-private partnerships; amending s. 403.067, F.S.; requiring basin management action plans for nutrient total maximum daily loads to include wastewater treatment and onsite sewage treatment and disposal system remediation plans that meet certain requirements; requiring the Department of Agriculture and Consumer Services to collect fertilization and nutrient records

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from certain agricultural producers and provide the information to the department annually by a specified date; requiring the Department of Agriculture and Consumer Services to perform onsite inspections of the agricultural producers at specified intervals; authorizing certain entities to develop research plans and legislative budget requests relating to best management practices by a specified date; creating s. 403.0673, F.S.; establishing a wastewater grant program within the Department of Environmental Protection; authorizing the department to distribute appropriated funds for certain projects; providing requirements for the distribution; requiring the department to coordinate with each water management district to identify grant recipients; requiring an annual report to the Governor and the Legislature by a specified date; creating s. 403.0855, F.S.; providing legislative findings regarding the regulation of biosolids management in this state; requiring the department to adopt rules for biosolids management; exempting the rules from a specified statutory requirement; amending s. 403.086, F.S.; prohibiting facilities for sanitary sewage disposal from disposing of any waste in the Indian River Lagoon beginning on a specified date without first providing advanced waste treatment; requiring facilities for sanitary sewage disposal to have a power outage contingency plan; requiring the facilities to take steps to prevent overflows and leaks and ensure that the water reaches

the appropriate facility for treatment; requiring the facilities to provide the Department of Environmental Protection with certain information; requiring the department to adopt rules; amending s. 403.087, F.S.; requiring the department to issue operation permits for domestic wastewater treatment facilities to certain facilities under certain circumstances; amending s. 403.088, F.S.; revising the permit conditions for a water pollution operation permit; requiring the department to submit a report to the Governor and the Legislature by a specified date identifying all wastewater utilities that experienced sanitary sewer overflows within a specified timeframe; amending s. 403.0891, F.S.; requiring model stormwater management programs to contain model ordinances for nutrient reduction practices and green infrastructure; amending s. 403.121, F.S.; providing civil penalties; amending s. 403.885, F.S.; requiring the department to give certain domestic wastewater utilities funding priority within the Water Projects Grant Program; providing a declaration of important state interest; amending ss. 153.54, 153.73, 163.3180, 180.03, 311.105, 327.46, 373.250, 373.414, 373.705, 373.707, 373.709, 376.307, 380.0552, 381.006, 381.0061, 381.0064, 381.00651, 403.08601, 403.0871, 403.0872, 403.1835, 403.707, 403.861, 489.551, and 590.02, F.S.; conforming cross-references and provisions to changes made by the act; providing a directive to the Division of Law Revision upon the adoption of certain rules by

117 the Department of Environmental Protection; providing
118 effective dates.
119
120 WHEREAS, nutrients negatively impact groundwater and
121 surface waters in this state and cause the proliferation of
122 algal blooms, and
123 WHEREAS, onsite sewage treatment and disposal systems were
124 designed to manage human waste and are permitted by the
125 Department of Health for that purpose, and
126 WHEREAS, conventional onsite sewage treatment and disposal
127 systems contribute nutrients to groundwater and surface waters
128 across this state which can cause harmful blue-green algal
129 blooms, and
130 WHEREAS, many stormwater systems are designed primarily to
131 divert and control stormwater rather than to remove pollutants,
132 and
133 WHEREAS, most existing stormwater system design criteria
134 fail to consistently meet either the 80 percent or 95 percent
135 target pollutant reduction goals established by the Department
136 of Environmental Protection, and
137 WHEREAS, other significant pollutants often can be removed
138 from stormwater more easily than nutrients and, as a result,
139 design criteria that provide the desired removal efficiencies
140 for nutrients will likely achieve equal or better removal
141 efficiencies for other constituents, and
142 WHEREAS, the Department of Environmental Protection has
143 found that the major causes of sanitary sewer overflows during
144 storm events are infiltration, inflow, and acute power failures,
145 and

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146 WHEREAS, the Department of Environmental Protection lacks
147 statutory authority to regulate infiltration and inflow or to
148 require that all lift stations constructed prior to 2003 have
149 emergency backup power, and
150 WHEREAS, sanitary sewer overflows and leaking
151 infrastructure create both a human health concern and a nutrient
152 pollution problem, and
153 WHEREAS, the agricultural sector is a significant
154 contributor to the excess delivery of nutrients to surface
155 waters throughout this state and has been identified as the
156 dominant source of both phosphorus and nitrogen within the Lake
157 Okeechobee watershed and a number of other basin management
158 action plan areas, and
159 WHEREAS, only 75 percent of eligible agricultural parties
160 within the Lake Okeechobee Basin Management Action Plan area are
161 enrolled in an appropriate best management practice and
162 enrollment numbers are considerably less in other basin
163 management action plan areas, and
164 WHEREAS, although agricultural best management practices,
165 by design, should be technically feasible and economically
166 viable, that does not imply that their adoption and full
167 implementation, alone, will alleviate downstream water quality
168 impairments, NOW, THEREFORE,
169
170 Be It Enacted by the Legislature of the State of Florida:
171
172 Section 1. This act may be cited as the "Clean Waterways
173 Act."
174 Section 2. (1) By July 1, 2020, the Department of Health

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175 must provide a report to the Governor, the President of the
176 Senate, and the Speaker of the House of Representatives
177 detailing the following information regarding the Onsite Sewage
178 Program:
179 (a) The average number of permits issued each year;
180 (b) The number of department employees conducting work on
181 or related to the program each year; and
182 (c) The program's costs and expenditures, including, but
183 not limited to, salaries and benefits, equipment costs, and
184 contracting costs.
185 (2) By December 31, 2020, the Department of Health and the
186 Department of Environmental Protection shall submit
187 recommendations to the Governor, the President of the Senate,
188 and the Speaker of the House of Representatives regarding the
189 transfer of the Onsite Sewage Program from the Department of
190 Health to the Department of Environmental Protection. The
191 recommendations must address all aspects of the transfer,
192 including the continued role of the county health departments in
193 the permitting, inspection, data management, and tracking of
194 onsite sewage treatment and disposal systems under the direction
195 of the Department of Environmental Protection.
196 (3) By June 30, 2021, the Department of Health and the
197 Department of Environmental Protection shall enter into an
198 interagency agreement based on the Department of Health report
199 required under subsection (2) and on recommendations from a plan
200 that must address all agency cooperation for a period not less
201 than 5 years after the transfer, including:
202 (a) The continued role of the county health departments in
203 the permitting, inspection, data management, and tracking of

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204 onsite sewage treatment and disposal systems under the direction
205 of the Department of Environmental Protection.
206 (b) The appropriate proportionate number of administrative,
207 auditing, inspector general, attorney, and operational support
208 positions, and their related funding levels and sources and
209 assigned property, to be transferred from the Office of General
210 Counsel, the Office of Inspector General, and the Division of
211 Administrative Services or other relevant offices or divisions
212 within the Department of Health to the Department of
213 Environmental Protection.
214 (c) The development of a recommended plan to address the
215 transfer or shared use of buildings, regional offices, and other
216 facilities used or owned by the Department of Health.
217 (d) Any operating budget adjustments that are necessary to
218 implement the requirements of this act. Adjustments made to the
219 operating budgets of the agencies in the implementation of this
220 act must be made in consultation with the appropriate
221 substantive and fiscal committees of the Senate and the House of
222 Representatives. The revisions to the approved operating budgets
223 for the 2021-2022 fiscal year which are necessary to reflect the
224 organizational changes made by this act must be implemented
225 pursuant to s. 216.292(4)(d), Florida Statutes, and are subject
226 to s. 216.177, Florida Statutes. Subsequent adjustments between
227 the Department of Health and the Department of Environmental
228 Protection which are determined necessary by the respective
229 agencies and approved by the Executive Office of the Governor
230 are authorized and subject to s. 216.177, Florida Statutes. The
231 appropriate substantive committees of the Senate and the House
232 of Representatives must also be notified of the proposed

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233 revisions to ensure their consistency with legislative policy
234 and intent.
235 (4) Effective July 1, 2021, all powers, duties, functions,
236 records, offices, personnel, associated administrative support
237 positions, property, pending issues, existing contracts,
238 administrative authority, administrative rules, and unexpended
239 balances of appropriations, allocations, and other funds for the
240 regulation of onsite sewage treatment and disposal systems
241 relating to the Onsite Sewage Program in the Department of
242 Health are transferred by a type two transfer, as defined in s.
243 20.06(2), Florida Statutes, to the Department of Environmental
244 Protection.
245 (5) Notwithstanding chapter 60L-34, Florida Administrative
246 Code, or any law to the contrary, employees who are transferred
247 from the Department of Health to the Department of Environmental
248 Protection to fill positions transferred by this act retain and
249 transfer any accrued annual leave, sick leave, and regular and
250 special compensatory leave balances.
251 Section 3. Subsection (5) of section 373.4131, Florida
252 Statutes, is amended, and subsection (6) is added to that
253 section, to read:
254 373.4131 Statewide environmental resource permitting
255 rules.—
256 (5) To ensure consistent implementation and interpretation
257 of the rules adopted pursuant to this section, the department
258 shall conduct or oversee regular assessment and training of its
259 staff and the staffs of the water management districts and local
260 governments delegated local pollution control program authority
261 under s. 373.441. The training must include coordinating field

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262 inspections of publicly and privately owned stormwater
263 structural controls, such as stormwater retention or detention
264 ponds.
265 (6) By January 1, 2021:
266 (a) The department and the water management districts shall
267 initiate rulemaking to update the stormwater design and
268 operation regulations using the most recent scientific
269 information available; and
270 (b) The department shall evaluate inspection data relating
271 to compliance by those entities that self-certify under s.
272 403.814(12) and provide the Legislature with recommendations for
273 improvements to the self-certification program.
274 Section 4. Effective July 1, 2021, present paragraphs (d)
275 through (q) of subsection (2) of section 381.0065, Florida
276 Statutes, are redesignated as paragraphs (e) through (r),
277 respectively, a new paragraph (d) is added to that subsection,
278 and subsections (3) and (4) of that section are amended, to
279 read:
280 381.0065 Onsite sewage treatment and disposal systems;
281 regulation.—
282 (2) DEFINITIONS.—As used in ss. 381.0065-381.0067, the
283 term:
284 (d) "Department" means the Department of Environmental
285 Protection.
286 (3) DUTIES AND POWERS OF THE DEPARTMENT ~~OF HEALTH~~.—The
287 department shall:
288 (a) Adopt rules to administer ss. 381.0065-381.0067,
289 including definitions that are consistent with the definitions
290 in this section, ~~decreases to setback requirements where no~~

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291 ~~health hazard exists,~~ increases for the lot-flow allowance for
292 performance-based systems, requirements for separation from
293 water table elevation during the wettest season, requirements
294 for the design and construction of any component part of an
295 onsite sewage treatment and disposal system, application and
296 permit requirements for persons who maintain an onsite sewage
297 treatment and disposal system, requirements for maintenance and
298 service agreements for aerobic treatment units and performance-
299 based treatment systems, and recommended standards, including
300 disclosure requirements, for voluntary system inspections to be
301 performed by individuals who are authorized by law to perform
302 such inspections and who shall inform a person having ownership,
303 control, or use of an onsite sewage treatment and disposal
304 system of the inspection standards and of that person's
305 authority to request an inspection based on all or part of the
306 standards.
307 (b) Perform application reviews and site evaluations, issue
308 permits, and conduct inspections and complaint investigations
309 associated with the construction, installation, maintenance,
310 modification, abandonment, operation, use, or repair of an
311 onsite sewage treatment and disposal system for a residence or
312 establishment with an estimated domestic sewage flow of 10,000
313 gallons or less per day, or an estimated commercial sewage flow
314 of 5,000 gallons or less per day, which is not currently
315 regulated under chapter 403.
316 (c) Develop a comprehensive program to ensure that onsite
317 sewage treatment and disposal systems regulated by the
318 department are sized, designed, constructed, installed, sited,
319 repaired, modified, abandoned, used, operated, and maintained in

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320 compliance with this section and rules adopted under this
321 section to prevent groundwater contamination, including impacts
322 from nutrient pollution, and surface water contamination and to
323 preserve the public health. The department is the final
324 administrative interpretive authority regarding rule
325 interpretation. In the event of a conflict regarding rule
326 interpretation, the secretary of the department ~~State Surgeon~~
327 ~~General~~, or his or her designee, shall timely assign a staff
328 person to resolve the dispute.
329 (d) Grant variances in hardship cases under the conditions
330 prescribed in this section and rules adopted under this section.
331 (e) Permit the use of a limited number of innovative
332 systems for a specific period of time, when there is compelling
333 evidence that the system will function properly and reliably to
334 meet the requirements of this section and rules adopted under
335 this section.
336 (f) Issue annual operating permits under this section.
337 (g) Establish and collect fees as established under s.
338 381.0066 for services provided with respect to onsite sewage
339 treatment and disposal systems.
340 (h) Conduct enforcement activities, including imposing
341 fines, issuing citations, suspensions, revocations, injunctions,
342 and emergency orders for violations of this section, part I of
343 chapter 386, or part III of chapter 489 or for a violation of
344 any rule adopted under this section, part I of chapter 386, or
345 part III of chapter 489.
346 (i) Provide or conduct education and training of department
347 personnel, service providers, and the public regarding onsite
348 sewage treatment and disposal systems.

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349 (j) Supervise research on, demonstration of, and training
350 on the performance, environmental impact, and public health
351 impact of onsite sewage treatment and disposal systems within
352 this state. Research fees collected under s. 381.0066(2)(k) must
353 be used to develop and fund hands-on training centers designed
354 to provide practical information about onsite sewage treatment
355 and disposal systems to septic tank contractors, master septic
356 tank contractors, contractors, inspectors, engineers, and the
357 public and must also be used to fund research projects which
358 focus on improvements of onsite sewage treatment and disposal
359 systems, including use of performance-based standards and
360 reduction of environmental impact. Research projects shall be
361 initially approved by the technical review and advisory panel
362 and shall be applicable to and reflect the soil conditions
363 specific to Florida. Such projects shall be awarded through
364 competitive negotiation, using the procedures provided in s.
365 287.055, to public or private entities that have experience in
366 onsite sewage treatment and disposal systems in Florida and that
367 are principally located in Florida. Research projects may ~~shall~~
368 not be awarded to firms or entities that employ or are
369 associated with persons who serve on either the technical review
370 and advisory panel or the research review and advisory
371 committee.
372 (k) Approve the installation of individual graywater
373 disposal systems in which blackwater is treated by a central
374 sewerage system.
375 (l) Regulate and permit the sanitation, handling,
376 treatment, storage, reuse, and disposal of byproducts from any
377 system regulated under this chapter and not regulated by the

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378 Department of Environmental Protection.
379 (m) Permit and inspect portable or temporary toilet
380 services and holding tanks. The department shall review
381 applications, perform site evaluations, and issue permits for
382 the temporary use of holding tanks, privies, portable toilet
383 services, or any other toilet facility that is intended for use
384 on a permanent or nonpermanent basis, including facilities
385 placed on construction sites when workers are present. The
386 department may specify standards for the construction,
387 maintenance, use, and operation of any such facility for
388 temporary use.
389 (n) Regulate and permit maintenance entities for
390 performance-based treatment systems and aerobic treatment unit
391 systems. To ensure systems are maintained and operated according
392 to manufacturer's specifications and designs, the department
393 shall establish by rule minimum qualifying criteria for
394 maintenance entities. The criteria shall include: training,
395 access to approved spare parts and components, access to
396 manufacturer's maintenance and operation manuals, and service
397 response time. The maintenance entity shall employ a contractor
398 licensed under s. 489.105(3)(m), or part III of chapter 489, or
399 a state-licensed wastewater plant operator, who is responsible
400 for maintenance and repair of all systems under contract.
401 (4) PERMITS; INSTALLATION; AND CONDITIONS.—A person may not
402 construct, repair, modify, abandon, or operate an onsite sewage
403 treatment and disposal system without first obtaining a permit
404 approved by the department. The department may issue permits to
405 carry out this section.~~, but shall not make the issuance of such~~
406 ~~permits contingent upon prior approval by the Department of~~

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407 ~~Environmental Protection, except that~~ The issuance of a permit
408 for work seaward of the coastal construction control line
409 established under s. 161.053 shall be contingent upon receipt of
410 any required coastal construction control line permit from the
411 department ~~of Environmental Protection~~. A construction permit is
412 valid for 18 months from the issuance date and may be extended
413 by the department for one 90-day period under rules adopted by
414 the department. A repair permit is valid for 90 days from the
415 date of issuance. An operating permit must be obtained before
416 ~~prior to~~ the use of any aerobic treatment unit or if the
417 establishment generates commercial waste. Buildings or
418 establishments that use an aerobic treatment unit or generate
419 commercial waste shall be inspected by the department at least
420 annually to assure compliance with the terms of the operating
421 permit. The operating permit for a commercial wastewater system
422 is valid for 1 year from the date of issuance and must be
423 renewed annually. The operating permit for an aerobic treatment
424 unit is valid for 2 years from the date of issuance and must be
425 renewed every 2 years. If all information pertaining to the
426 siting, location, and installation conditions or repair of an
427 onsite sewage treatment and disposal system remains the same, a
428 construction or repair permit for the onsite sewage treatment
429 and disposal system may be transferred to another person, if the
430 transferee files, within 60 days after the transfer of
431 ownership, an amended application providing all corrected
432 information and proof of ownership of the property. There is no
433 fee associated with the processing of this supplemental
434 information. A person may not contract to construct, modify,
435 alter, repair, service, abandon, or maintain any portion of an

436 onsite sewage treatment and disposal system without being
437 registered under part III of chapter 489. A property owner who
438 personally performs construction, maintenance, or repairs to a
439 system serving his or her own owner-occupied single-family
440 residence is exempt from registration requirements for
441 performing such construction, maintenance, or repairs on that
442 residence, but is subject to all permitting requirements. A
443 municipality or political subdivision of the state may not issue
444 a building or plumbing permit for any building that requires the
445 use of an onsite sewage treatment and disposal system unless the
446 owner or builder has received a construction permit for such
447 system from the department. A building or structure may not be
448 occupied and a municipality, political subdivision, or any state
449 or federal agency may not authorize occupancy until the
450 department approves the final installation of the onsite sewage
451 treatment and disposal system. A municipality or political
452 subdivision of the state may not approve any change in occupancy
453 or tenancy of a building that uses an onsite sewage treatment
454 and disposal system until the department has reviewed the use of
455 the system with the proposed change, approved the change, and
456 amended the operating permit.
457 (a) Subdivisions and lots in which each lot has a minimum
458 area of at least one-half acre and either a minimum dimension of
459 100 feet or a mean of at least 100 feet of the side bordering
460 the street and the distance formed by a line parallel to the
461 side bordering the street drawn between the two most distant
462 points of the remainder of the lot may be developed with a water
463 system regulated under s. 381.0062 and onsite sewage treatment
464 and disposal systems, provided the projected daily sewage flow

465 does not exceed an average of 1,500 gallons per acre per day,
466 and provided satisfactory drinking water can be obtained and all
467 distance and setback, soil condition, water table elevation, and
468 other related requirements of this section and rules adopted
469 under this section can be met.
470 (b) Subdivisions and lots using a public water system as
471 defined in s. 403.852 may use onsite sewage treatment and
472 disposal systems, provided there are no more than four lots per
473 acre, provided the projected daily sewage flow does not exceed
474 an average of 2,500 gallons per acre per day, and provided that
475 all distance and setback, soil condition, water table elevation,
476 and other related requirements that are generally applicable to
477 the use of onsite sewage treatment and disposal systems are met.
478 (c) Notwithstanding paragraphs (a) and (b), for
479 subdivisions platted of record on or before October 1, 1991,
480 when a developer or other appropriate entity has previously made
481 or makes provisions, including financial assurances or other
482 commitments, acceptable to the Department ~~of Health~~, that a
483 central water system will be installed by a regulated public
484 utility based on a density formula, private potable wells may be
485 used with onsite sewage treatment and disposal systems until the
486 agreed-upon densities are reached. In a subdivision regulated by
487 this paragraph, the average daily sewage flow may not exceed
488 2,500 gallons per acre per day. This section does not affect the
489 validity of existing prior agreements. After October 1, 1991,
490 the exception provided under this paragraph is not available to
491 a developer or other appropriate entity.
492 (d) Paragraphs (a) and (b) do not apply to any proposed
493 residential subdivision with more than 50 lots or to any

494 proposed commercial subdivision with more than 5 lots where a
495 publicly owned or investor-owned sewerage system is available.
496 It is the intent of this paragraph not to allow development of
497 additional proposed subdivisions in order to evade the
498 requirements of this paragraph.
499 (e) The department shall adopt rules to locate onsite
500 sewage treatment and disposal systems, including establishing
501 setback distances, to prevent groundwater contamination and
502 surface water contamination and to preserve the public health.
503 The rulemaking process for such rules must be completed by July
504 1, 2022, and the department shall notify the Division of Law
505 Revision of the date such rules are adopted. The rules must
506 consider conventional and advanced onsite sewage treatment and
507 disposal system designs, impaired or degraded water bodies,
508 wastewater and drinking water infrastructure, potable water
509 sources, nonpotable wells, stormwater infrastructure, the onsite
510 sewage treatment and disposal system remediation plans developed
511 pursuant to s. 403.067(7)(a)9.b., nutrient pollution, and the
512 recommendations of the onsite sewage treatment and disposal
513 systems technical advisory committee established pursuant to s.
514 381.00652.
515 (f) ~~(e)~~ Onsite sewage treatment and disposal systems that
516 are permitted before adoption of the rules identified in
517 paragraph (e) may ~~must~~ not be placed closer than:
518 1. Seventy-five feet from a private potable well.
519 2. Two hundred feet from a public potable well serving a
520 residential or nonresidential establishment having a total
521 sewage flow of greater than 2,000 gallons per day.
522 3. One hundred feet from a public potable well serving a

523 residential or nonresidential establishment having a total
524 sewage flow of less than or equal to 2,000 gallons per day.
525 4. Fifty feet from any nonpotable well.
526 5. Ten feet from any storm sewer pipe, to the maximum
527 extent possible, but in no instance shall the setback be less
528 than 5 feet.
529 6. Seventy-five feet from the mean high-water line of a
530 tidally influenced surface water body.
531 7. Seventy-five feet from the mean annual flood line of a
532 permanent nontidal surface water body.
533 8. Fifteen feet from the design high-water line of
534 retention areas, detention areas, or swales designed to contain
535 standing or flowing water for less than 72 hours after a
536 rainfall or the design high-water level of normally dry drainage
537 ditches or normally dry individual lot stormwater retention
538 areas.
539 ~~(f) Except as provided under paragraphs (c) and (t), no~~
540 ~~limitations shall be imposed by rule, relating to the distance~~
541 ~~between an onsite disposal system and any area that either~~
542 ~~permanently or temporarily has visible surface water.~~
543 (g) All provisions of this section and rules adopted under
544 this section relating to soil condition, water table elevation,
545 distance, and other setback requirements must be equally applied
546 to all lots, with the following exceptions:
547 1. Any residential lot that was platted and recorded on or
548 after January 1, 1972, or that is part of a residential
549 subdivision that was approved by the appropriate permitting
550 agency on or after January 1, 1972, and that was eligible for an
551 onsite sewage treatment and disposal system construction permit

552 on the date of such platting and recording or approval shall be
553 eligible for an onsite sewage treatment and disposal system
554 construction permit, regardless of when the application for a
555 permit is made. If rules in effect at the time the permit
556 application is filed cannot be met, residential lots platted and
557 recorded or approved on or after January 1, 1972, shall, to the
558 maximum extent possible, comply with the rules in effect at the
559 time the permit application is filed. At a minimum, however,
560 those residential lots platted and recorded or approved on or
561 after January 1, 1972, but before January 1, 1983, shall comply
562 with those rules in effect on January 1, 1983, and those
563 residential lots platted and recorded or approved on or after
564 January 1, 1983, shall comply with those rules in effect at the
565 time of such platting and recording or approval. In determining
566 the maximum extent of compliance with current rules that is
567 possible, the department shall allow structures and
568 appurtenances thereto which were authorized at the time such
569 lots were platted and recorded or approved.
570 2. Lots platted before 1972 are subject to a 50-foot
571 minimum surface water setback and are not subject to lot size
572 requirements. The projected daily flow for onsite sewage
573 treatment and disposal systems for lots platted before 1972 may
574 not exceed:
575 a. Two thousand five hundred gallons per acre per day for
576 lots served by public water systems as defined in s. 403.852.
577 b. One thousand five hundred gallons per acre per day for
578 lots served by water systems regulated under s. 381.0062.
579 (h)1. The department may grant variances in hardship cases
580 which may be less restrictive than ~~the provisions~~ specified in

581 this section. If a variance is granted and the onsite sewage
582 treatment and disposal system construction permit has been
583 issued, the variance may be transferred with the system
584 construction permit, if the transferee files, within 60 days
585 after the transfer of ownership, an amended construction permit
586 application providing all corrected information and proof of
587 ownership of the property and if the same variance would have
588 been required for the new owner of the property as was
589 originally granted to the original applicant for the variance.
590 There is no fee associated with the processing of this
591 supplemental information. A variance may not be granted under
592 this section until the department is satisfied that:
593 a. The hardship was not caused intentionally by the action
594 of the applicant;
595 b. No reasonable alternative, taking into consideration
596 factors such as cost, exists for the treatment of the sewage;
597 and
598 c. The discharge from the onsite sewage treatment and
599 disposal system will not adversely affect the health of the
600 applicant or the public or significantly degrade the groundwater
601 or surface waters.
602
603 Where soil conditions, water table elevation, and setback
604 provisions are determined by the department to be satisfactory,
605 special consideration must be given to those lots platted before
606 1972.
607 2. The department shall appoint and staff a variance review
608 and advisory committee, which shall meet monthly to recommend
609 agency action on variance requests. The committee shall make its

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610 recommendations on variance requests at the meeting in which the
611 application is scheduled for consideration, except for an
612 extraordinary change in circumstances, the receipt of new
613 information that raises new issues, or when the applicant
614 requests an extension. The committee shall consider the criteria
615 in subparagraph 1. in its recommended agency action on variance
616 requests and shall also strive to allow property owners the full
617 use of their land where possible. The committee consists of the
618 following:
619 a. The Secretary of Environmental Protection ~~State Surgeon~~
620 ~~General~~ or his or her designee.
621 b. A representative from the county health departments.
622 c. A representative from the home building industry
623 recommended by the Florida Home Builders Association.
624 d. A representative from the septic tank industry
625 recommended by the Florida Onsite Wastewater Association.
626 e. A representative from the Department of Health
627 ~~Environmental Protection~~.
628 f. A representative from the real estate industry who is
629 also a developer in this state who develops lots using onsite
630 sewage treatment and disposal systems, recommended by the
631 Florida Association of Realtors.
632 g. A representative from the engineering profession
633 recommended by the Florida Engineering Society.
634
635 Members shall be appointed for a term of 3 years, with such
636 appointments being staggered so that the terms of no more than
637 two members expire in any one year. Members shall serve without
638 remuneration, but if requested, shall be reimbursed for per diem

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639 and travel expenses as provided in s. 112.061.
640 (i) A construction permit may not be issued for an onsite
641 sewage treatment and disposal system in any area zoned or used
642 for industrial or manufacturing purposes, or its equivalent,
643 where a publicly owned or investor-owned sewage treatment system
644 is available, or where a likelihood exists that the system will
645 receive toxic, hazardous, or industrial waste. An existing
646 onsite sewage treatment and disposal system may be repaired if a
647 publicly owned or investor-owned sewerage system is not
648 available within 500 feet of the building sewer stub-out and if
649 system construction and operation standards can be met. This
650 paragraph does not require publicly owned or investor-owned
651 sewerage treatment systems to accept anything other than
652 domestic wastewater.
653 1. A building located in an area zoned or used for
654 industrial or manufacturing purposes, or its equivalent, when
655 such building is served by an onsite sewage treatment and
656 disposal system, must not be occupied until the owner or tenant
657 has obtained written approval from the department. The
658 department may ~~shall~~ not grant approval when the proposed use of
659 the system is to dispose of toxic, hazardous, or industrial
660 wastewater or toxic or hazardous chemicals.
661 2. Each person who owns or operates a business or facility
662 in an area zoned or used for industrial or manufacturing
663 purposes, or its equivalent, or who owns or operates a business
664 that has the potential to generate toxic, hazardous, or
665 industrial wastewater or toxic or hazardous chemicals, and uses
666 an onsite sewage treatment and disposal system that is installed
667 on or after July 5, 1989, must obtain an annual system operating

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668 permit from the department. A person who owns or operates a
669 business that uses an onsite sewage treatment and disposal
670 system that was installed and approved before July 5, 1989, need
671 not obtain a system operating permit. However, upon change of
672 ownership or tenancy, the new owner or operator must notify the
673 department of the change, and the new owner or operator must
674 obtain an annual system operating permit, regardless of the date
675 that the system was installed or approved.
676 3. The department shall periodically review and evaluate
677 the continued use of onsite sewage treatment and disposal
678 systems in areas zoned or used for industrial or manufacturing
679 purposes, or its equivalent, and may require the collection and
680 analyses of samples from within and around such systems. If the
681 department finds that toxic or hazardous chemicals or toxic,
682 hazardous, or industrial wastewater have been or are being
683 disposed of through an onsite sewage treatment and disposal
684 system, the department shall initiate enforcement actions
685 against the owner or tenant to ensure adequate cleanup,
686 treatment, and disposal.
687 (j) An onsite sewage treatment and disposal system designed
688 by a professional engineer registered in the state and certified
689 by such engineer as complying with performance criteria adopted
690 by the department must be approved by the department subject to
691 the following:
692 1. The performance criteria applicable to engineer-designed
693 systems must be limited to those necessary to ensure that such
694 systems do not adversely affect the public health or
695 significantly degrade the groundwater or surface water. Such
696 performance criteria shall include consideration of the quality

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697 of system effluent, the proposed total sewage flow per acre,
698 wastewater treatment capabilities of the natural or replaced
699 soil, water quality classification of the potential surface-
700 water-receiving body, and the structural and maintenance
701 viability of the system for the treatment of domestic
702 wastewater. However, performance criteria shall address only the
703 performance of a system and not a system's design.
704 2. A person electing to utilize an engineer-designed system
705 shall, upon completion of the system design, submit such design,
706 certified by a registered professional engineer, to the county
707 health department. The county health department may utilize an
708 outside consultant to review the engineer-designed system, with
709 the actual cost of such review to be borne by the applicant.
710 Within 5 working days after receiving an engineer-designed
711 system permit application, the county health department shall
712 request additional information if the application is not
713 complete. Within 15 working days after receiving a complete
714 application for an engineer-designed system, the county health
715 department either shall issue the permit or, if it determines
716 that the system does not comply with the performance criteria,
717 shall notify the applicant of that determination and refer the
718 application to the department for a determination as to whether
719 the system should be approved, disapproved, or approved with
720 modification. The department engineer's determination shall
721 prevail over the action of the county health department. The
722 applicant shall be notified in writing of the department's
723 determination and of the applicant's rights to pursue a variance
724 or seek review under ~~the provisions of~~ chapter 120.
725 3. The owner of an engineer-designed performance-based

726 system must maintain a current maintenance service agreement
727 with a maintenance entity permitted by the department. The
728 maintenance entity shall inspect each system at least twice each
729 year and shall report quarterly to the department on the number
730 of systems inspected and serviced. The reports may be submitted
731 electronically.
732 4. The property owner of an owner-occupied, single-family
733 residence may be approved and permitted by the department as a
734 maintenance entity for his or her own performance-based
735 treatment system upon written certification from the system
736 manufacturer's approved representative that the property owner
737 has received training on the proper installation and service of
738 the system. The maintenance service agreement must conspicuously
739 disclose that the property owner has the right to maintain his
740 or her own system and is exempt from contractor registration
741 requirements for performing construction, maintenance, or
742 repairs on the system but is subject to all permitting
743 requirements.
744 5. The property owner shall obtain a biennial system
745 operating permit from the department for each system. The
746 department shall inspect the system at least annually, or on
747 such periodic basis as the fee collected permits, and may
748 collect system-effluent samples if appropriate to determine
749 compliance with the performance criteria. The fee for the
750 biennial operating permit shall be collected beginning with the
751 second year of system operation.
752 6. If an engineer-designed system fails to properly
753 function or fails to meet performance standards, the system
754 shall be re-engineered, if necessary, to bring the system into

755 compliance with ~~the provisions of~~ this section.
756 (k) An innovative system may be approved in conjunction
757 with an engineer-designed site-specific system which is
758 certified by the engineer to meet the performance-based criteria
759 adopted by the department.
760 (l) For the Florida Keys, the department shall adopt a
761 special rule for the construction, installation, modification,
762 operation, repair, maintenance, and performance of onsite sewage
763 treatment and disposal systems which considers the unique soil
764 conditions and water table elevations, densities, and setback
765 requirements. On lots where a setback distance of 75 feet from
766 surface waters, saltmarsh, and buttonwood association habitat
767 areas cannot be met, an injection well, approved and permitted
768 by the department, may be used for disposal of effluent from
769 onsite sewage treatment and disposal systems. The following
770 additional requirements apply to onsite sewage treatment and
771 disposal systems in Monroe County:
772 1. The county, each municipality, and those special
773 districts established for the purpose of the collection,
774 transmission, treatment, or disposal of sewage shall ensure, in
775 accordance with the specific schedules adopted by the
776 Administration Commission under s. 380.0552, the completion of
777 onsite sewage treatment and disposal system upgrades to meet the
778 requirements of this paragraph.
779 2. Onsite sewage treatment and disposal systems must cease
780 discharge by December 31, 2015, or must comply with department
781 rules and provide the level of treatment which, on a permitted
782 annual average basis, produces an effluent that contains no more
783 than the following concentrations:

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784 a. Biochemical Oxygen Demand (CBOD5) of 10 mg/l.
785 b. Suspended Solids of 10 mg/l.
786 c. Total Nitrogen, expressed as N, of 10 mg/l or a
787 reduction in nitrogen of at least 70 percent. A system that has
788 been tested and certified to reduce nitrogen concentrations by
789 at least 70 percent shall be deemed to be in compliance with
790 this standard.
791 d. Total Phosphorus, expressed as P, of 1 mg/l.
792
793 In addition, onsite sewage treatment and disposal systems
794 discharging to an injection well must provide basic disinfection
795 as defined by department rule.
796 3. In areas not scheduled to be served by a central sewer,
797 onsite sewage treatment and disposal systems must, by December
798 31, 2015, comply with department rules and provide the level of
799 treatment described in subparagraph 2.
800 4. In areas scheduled to be served by central sewer by
801 December 31, 2015, if the property owner has paid a connection
802 fee or assessment for connection to the central sewer system,
803 the property owner may install a holding tank with a high water
804 alarm or an onsite sewage treatment and disposal system that
805 meets the following minimum standards:
806 a. The existing tanks must be pumped and inspected and
807 certified as being watertight and free of defects in accordance
808 with department rule; and
809 b. A sand-lined drainfield or injection well in accordance
810 with department rule must be installed.
811 5. Onsite sewage treatment and disposal systems must be
812 monitored for total nitrogen and total phosphorus concentrations

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as required by department rule.

6. The department shall enforce proper installation, operation, and maintenance of onsite sewage treatment and disposal systems pursuant to this chapter, including ensuring that the appropriate level of treatment described in subparagraph 2. is met.

7. The authority of a local government, including a special district, to mandate connection of an onsite sewage treatment and disposal system is governed by s. 4, chapter 99-395, Laws of Florida.

8. Notwithstanding any other ~~provision of~~ law, an onsite sewage treatment and disposal system installed after July 1, 2010, in unincorporated Monroe County, excluding special wastewater districts, that complies with the standards in subparagraph 2. is not required to connect to a central sewer system until December 31, 2020.

(m) No product sold in the state for use in onsite sewage treatment and disposal systems may contain any substance in concentrations or amounts that would interfere with or prevent the successful operation of such system, or that would cause discharges from such systems to violate applicable water quality standards. The department shall publish criteria for products known or expected to meet the conditions of this paragraph. In the event a product does not meet such criteria, such product may be sold if the manufacturer satisfactorily demonstrates to the department that the conditions of this paragraph are met.

(n) Evaluations for determining the seasonal high-water table elevations or the suitability of soils for the use of a new onsite sewage treatment and disposal system shall be

performed by department personnel, professional engineers registered in the state, or such other persons with expertise, as defined by rule, in making such evaluations. Evaluations for determining mean annual flood lines shall be performed by those persons identified in paragraph (2)(k) ~~(2)(j)~~. The department shall accept evaluations submitted by professional engineers and such other persons as meet the expertise established by this section or by rule unless the department has a reasonable scientific basis for questioning the accuracy or completeness of the evaluation.

(o) The department shall appoint a research review and advisory committee, which shall meet at least semiannually. The committee shall advise the department on directions for new research, review and rank proposals for research contracts, and review draft research reports and make comments. The committee is comprised of:

1. A representative of the Secretary of Environmental Protection ~~State Surgeon General~~, or his or her designee.

2. A representative from the septic tank industry.

3. A representative from the home building industry.

4. A representative from an environmental interest group.

5. A representative from the State University System, from a department knowledgeable about onsite sewage treatment and disposal systems.

6. A professional engineer registered in this state who has work experience in onsite sewage treatment and disposal systems.

7. A representative from local government who is knowledgeable about domestic wastewater treatment.

8. A representative from the real estate profession.

871 9. A representative from the restaurant industry.
872 10. A consumer.
873
874 Members shall be appointed for a term of 3 years, with the
875 appointments being staggered so that the terms of no more than
876 four members expire in any one year. Members shall serve without
877 remuneration, but are entitled to reimbursement for per diem and
878 travel expenses as provided in s. 112.061.
879 (p) An application for an onsite sewage treatment and
880 disposal system permit shall be completed in full, signed by the
881 owner or the owner's authorized representative, or by a
882 contractor licensed under chapter 489, and shall be accompanied
883 by all required exhibits and fees. No specific documentation of
884 property ownership shall be required as a prerequisite to the
885 review of an application or the issuance of a permit. The
886 issuance of a permit does not constitute determination by the
887 department of property ownership.
888 (q) The department may not require any form of subdivision
889 analysis of property by an owner, developer, or subdivider prior
890 to submission of an application for an onsite sewage treatment
891 and disposal system.
892 (r) Nothing in this section limits the power of a
893 municipality or county to enforce other laws for the protection
894 of the public health and safety.
895 (s) In the siting of onsite sewage treatment and disposal
896 systems, including drainfields, shoulders, and slopes, guttering
897 may ~~shall~~ not be required on single-family residential dwelling
898 units for systems located greater than 5 feet from the roof drip
899 line of the house. If guttering is used on residential dwelling

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900 units, the downspouts shall be directed away from the
901 drainfield.
902 (t) Notwithstanding ~~the provisions of~~ subparagraph (g)1.,
903 onsite sewage treatment and disposal systems located in
904 floodways of the Suwannee and Aucilla Rivers must adhere to the
905 following requirements:
906 1. The absorption surface of the drainfield may ~~shall~~ not
907 be subject to flooding based on 10-year flood elevations.
908 Provided, however, for lots or parcels created by the
909 subdivision of land in accordance with applicable local
910 government regulations prior to January 17, 1990, if an
911 applicant cannot construct a drainfield system with the
912 absorption surface of the drainfield at an elevation equal to or
913 above 10-year flood elevation, the department shall issue a
914 permit for an onsite sewage treatment and disposal system within
915 the 10-year floodplain of rivers, streams, and other bodies of
916 flowing water if all of the following criteria are met:
917 a. The lot is at least one-half acre in size;
918 b. The bottom of the drainfield is at least 36 inches above
919 the 2-year flood elevation; and
920 c. The applicant installs either: a waterless,
921 incinerating, or organic waste composting toilet and a graywater
922 system and drainfield in accordance with department rules; an
923 aerobic treatment unit and drainfield in accordance with
924 department rules; a system approved by the State Health Office
925 that is capable of reducing effluent nitrate by at least 50
926 percent; or a system approved by the county health department
927 pursuant to department rule other than a system using
928 alternative drainfield materials. The United States Department

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929 of Agriculture Soil Conservation Service soil maps, State of
930 Florida Water Management District data, and Federal Emergency
931 Management Agency Flood Insurance maps are resources that shall
932 be used to identify flood-prone areas.
933 2. The use of fill or mounding to elevate a drainfield
934 system out of the 10-year floodplain of rivers, streams, or
935 other bodies of flowing water may ~~shall~~ not be permitted if such
936 a system lies within a regulatory floodway of the Suwannee and
937 Aucilla Rivers. In cases where the 10-year flood elevation does
938 not coincide with the boundaries of the regulatory floodway, the
939 regulatory floodway will be considered for the purposes of this
940 subsection to extend at a minimum to the 10-year flood
941 elevation.
942 (u)1. The owner of an aerobic treatment unit system shall
943 maintain a current maintenance service agreement with an aerobic
944 treatment unit maintenance entity permitted by the department.
945 The maintenance entity shall inspect each aerobic treatment unit
946 system at least twice each year and shall report quarterly to
947 the department on the number of aerobic treatment unit systems
948 inspected and serviced. The reports may be submitted
949 electronically.
950 2. The property owner of an owner-occupied, single-family
951 residence may be approved and permitted by the department as a
952 maintenance entity for his or her own aerobic treatment unit
953 system upon written certification from the system manufacturer's
954 approved representative that the property owner has received
955 training on the proper installation and service of the system.
956 The maintenance entity service agreement must conspicuously
957 disclose that the property owner has the right to maintain his

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958 or her own system and is exempt from contractor registration
959 requirements for performing construction, maintenance, or
960 repairs on the system but is subject to all permitting
961 requirements.
962 3. A septic tank contractor licensed under part III of
963 chapter 489, if approved by the manufacturer, may not be denied
964 access by the manufacturer to aerobic treatment unit system
965 training or spare parts for maintenance entities. After the
966 original warranty period, component parts for an aerobic
967 treatment unit system may be replaced with parts that meet
968 manufacturer's specifications but are manufactured by others.
969 The maintenance entity shall maintain documentation of the
970 substitute part's equivalency for 2 years and shall provide such
971 documentation to the department upon request.
972 4. The owner of an aerobic treatment unit system shall
973 obtain a system operating permit from the department and allow
974 the department to inspect during reasonable hours each aerobic
975 treatment unit system at least annually, and such inspection may
976 include collection and analysis of system-effluent samples for
977 performance criteria established by rule of the department.
978 (v) The department may require the submission of detailed
979 system construction plans that are prepared by a professional
980 engineer registered in this state. The department shall
981 establish by rule criteria for determining when such a
982 submission is required.
983 (w) Any permit issued and approved by the department for
984 the installation, modification, or repair of an onsite sewage
985 treatment and disposal system shall transfer with the title to
986 the property in a real estate transaction. A title may not be

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987 encumbered at the time of transfer by new permit requirements by
988 a governmental entity for an onsite sewage treatment and
989 disposal system which differ from the permitting requirements in
990 effect at the time the system was permitted, modified, or
991 repaired. An inspection of a system may not be mandated by a
992 governmental entity at the point of sale in a real estate
993 transaction. This paragraph does not affect a septic tank phase-
994 out deferral program implemented by a consolidated government as
995 defined in s. 9, Art. VIII of the State Constitution (1885).
996 (x) A governmental entity, including a municipality,
997 county, or statutorily created commission, may not require an
998 engineer-designed performance-based treatment system, excluding
999 a passive engineer-designed performance-based treatment system,
1000 before the completion of the Florida Onsite Sewage Nitrogen
1001 Reduction Strategies Project. This paragraph does not apply to a
1002 governmental entity, including a municipality, county, or
1003 statutorily created commission, which adopted a local law,
1004 ordinance, or regulation on or before January 31, 2012.
1005 Notwithstanding this paragraph, an engineer-designed
1006 performance-based treatment system may be used to meet the
1007 requirements of the variance review and advisory committee
1008 recommendations.
1009 (y)1. An onsite sewage treatment and disposal system is not
1010 considered abandoned if the system is disconnected from a
1011 structure that was made unusable or destroyed following a
1012 disaster and if the system was properly functioning at the time
1013 of disconnection and was not adversely affected by the disaster.
1014 The onsite sewage treatment and disposal system may be
1015 reconnected to a rebuilt structure if:

1016 a. The reconnection of the system is to the same type of
1017 structure which contains the same number of bedrooms or fewer,
1018 if the square footage of the structure is less than or equal to
1019 110 percent of the original square footage of the structure that
1020 existed before the disaster;
1021 b. The system is not a sanitary nuisance; and
1022 c. The system has not been altered without prior
1023 authorization.
1024 2. An onsite sewage treatment and disposal system that
1025 serves a property that is foreclosed upon is not considered
1026 abandoned.
1027 (z) If an onsite sewage treatment and disposal system
1028 permittee receives, relies upon, and undertakes construction of
1029 a system based upon a validly issued construction permit under
1030 rules applicable at the time of construction but a change to a
1031 rule occurs within 5 years after the approval of the system for
1032 construction but before the final approval of the system, the
1033 rules applicable and in effect at the time of construction
1034 approval apply at the time of final approval if fundamental site
1035 conditions have not changed between the time of construction
1036 approval and final approval.
1037 (aa) An existing-system inspection or evaluation and
1038 assessment, or a modification, replacement, or upgrade of an
1039 onsite sewage treatment and disposal system is not required for
1040 a remodeling addition or modification to a single-family home if
1041 a bedroom is not added. However, a remodeling addition or
1042 modification to a single-family home may not cover any part of
1043 the existing system or encroach upon a required setback or the
1044 unobstructed area. To determine if a setback or the unobstructed

1045 area is impacted, the local health department shall review and
1046 verify a floor plan and site plan of the proposed remodeling
1047 addition or modification to the home submitted by a remodeler
1048 which shows the location of the system, including the distance
1049 of the remodeling addition or modification to the home from the
1050 onsite sewage treatment and disposal system. The local health
1051 department may visit the site or otherwise determine the best
1052 means of verifying the information submitted. A verification of
1053 the location of a system is not an inspection or evaluation and
1054 assessment of the system. The review and verification must be
1055 completed within 7 business days after receipt by the local
1056 health department of a floor plan and site plan. If the review
1057 and verification is not completed within such time, the
1058 remodeling addition or modification to the single-family home,
1059 for the purposes of this paragraph, is approved.
1060 Section 5. Section 381.00652, Florida Statutes, is created
1061 to read:
1062 381.00652 Onsite sewage treatment and disposal systems
1063 technical advisory committee.—
1064 (1) An onsite sewage treatment and disposal systems
1065 technical advisory committee, a committee as defined in s.
1066 20.03(8), is created within the department. The committee shall:
1067 (a) Provide recommendations to increase the availability in
1068 the marketplace of nutrient-removing onsite sewage treatment and
1069 disposal systems, including systems that are cost-effective,
1070 low-maintenance, and reliable.
1071 (b) Consider and recommend regulatory options, such as
1072 fast-track approval, prequalification, or expedited permitting,
1073 to facilitate the introduction and use of nutrient-removing

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1074 onsite sewage treatment and disposal systems that have been
1075 reviewed and approved by a national agency or organization, such
1076 as the American National Standards Institute 245 systems
1077 approved by the National Sanitation Foundation International.
1078 (c) Provide recommendations for appropriate setback
1079 distances for onsite sewage treatment and disposal systems from
1080 surface water, groundwater, and wells.
1081 (2) The department shall use existing and available
1082 resources to administer and support the activities of the
1083 committee.
1084 (3)(a) By August 1, 2021, the department, in consultation
1085 with the Department of Health, shall appoint no more than nine
1086 members to the committee, including, but not limited to, the
1087 following:
1088 1. A professional engineer.
1089 2. A septic tank contractor.
1090 3. A representative from the home building industry.
1091 4. A representative from the real estate industry.
1092 5. A representative from the onsite sewage treatment and
1093 disposal system industry.
1094 6. A representative from local government.
1095 7. Two representatives from the environmental community.
1096 8. A representative of the scientific and technical
1097 community who has substantial expertise in the areas of the fate
1098 and transport of water pollutants, toxicology, epidemiology,
1099 geology, biology, or environmental sciences.
1100 (b) Members shall serve without compensation and are not
1101 entitled to reimbursement for per diem or travel expenses.
1102 (4) By January 1, 2022, the committee shall submit its

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1103 recommendations to the Governor, the President of the Senate,
1104 and the Speaker of the House of Representatives.
1105 (5) This section expires August 15, 2022.
1106 (6) For purposes of this section, the term "department"
1107 means the Department of Environmental Protection.
1108 Section 6. Effective July 1, 2021, section 381.0068,
1109 Florida Statutes, is repealed.
1110 Section 7. Present subsections (14) through (44) of section
1111 403.061, Florida Statutes, are redesignated as subsections (15)
1112 through (45), respectively, a new subsection (14) is added to
1113 that section, and subsection (7) of that section is amended, to
1114 read:
1115 403.061 Department; powers and duties.—The department shall
1116 have the power and the duty to control and prohibit pollution of
1117 air and water in accordance with the law and rules adopted and
1118 promulgated by it and, for this purpose, to:
1119 (7) Adopt rules ~~pursuant to ss. 120.536(1) and 120.54~~ to
1120 implement ~~the provisions of~~ this act. Any rule adopted pursuant
1121 to this act must ~~shall~~ be consistent with the provisions of
1122 federal law, if any, relating to control of emissions from motor
1123 vehicles, effluent limitations, pretreatment requirements, or
1124 standards of performance. A ~~No~~ county, municipality, or
1125 political subdivision may not ~~shall~~ adopt or enforce any local
1126 ordinance, special law, or local regulation requiring the
1127 installation of Stage II vapor recovery systems, as currently
1128 defined by department rule, unless such county, municipality, or
1129 political subdivision is or has been in the past designated by
1130 federal regulation as a moderate, serious, or severe ozone
1131 nonattainment area. Rules adopted pursuant to this act may ~~shall~~

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1132 not require dischargers of waste into waters of the state to
1133 improve natural background conditions. The department shall
1134 adopt rules to reasonably limit, reduce, and eliminate leaks,
1135 seepages, or inputs into the underground pipes of wastewater
1136 collection systems. Discharges from steam electric generating
1137 plants existing or licensed under this chapter on July 1, 1984,
1138 may ~~shall~~ not be required to be treated to a greater extent than
1139 may be necessary to assure that the quality of nonthermal
1140 components of discharges from nonrecirculated cooling water
1141 systems is as high as the quality of the makeup waters; that the
1142 quality of nonthermal components of discharges from recirculated
1143 cooling water systems is no lower than is allowed for blowdown
1144 from such systems; or that the quality of noncooling system
1145 discharges which receive makeup water from a receiving body of
1146 water which does not meet applicable department water quality
1147 standards is as high as the quality of the receiving body of
1148 water. The department may not adopt standards more stringent
1149 than federal regulations, except as provided in s. 403.804.
1150 (14) In order to promote resilient utilities, require
1151 public utilities or their affiliated companies that hold or are
1152 seeking a wastewater discharge permit to file reports and other
1153 data regarding transactions or allocations of common costs among
1154 the utility or entity and such affiliated companies. The
1155 department may require such reports or other data necessary to
1156 ensure a permitted entity is reporting expenditures on pollution
1157 mitigation and prevention, including, but not limited to, the
1158 prevention of sanitary sewer overflows, collection and
1159 transmission system pipe leakages, and inflow and infiltration.
1160 The department shall adopt rules to implement this subsection.

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1161

1162 The department shall implement such programs in conjunction with
1163 its other powers and duties and shall place special emphasis on
1164 reducing and eliminating contamination that presents a threat to
1165 humans, animals or plants, or to the environment.
1166 Section 8. Section 403.0616, Florida Statutes, is created
1167 to read:
1168 403.0616 Real-time water quality monitoring program.-
1169 (1) Subject to appropriation, the department shall
1170 establish a real-time water quality monitoring program to assist
1171 in the restoration, preservation, and enhancement of impaired
1172 waterbodies and coastal resources.
1173 (2) In order to expedite the creation and implementation of
1174 the program, the department is encouraged to form public-private
1175 partnerships with established scientific entities that have
1176 proven existing real-time water quality monitoring equipment and
1177 experience in deploying the equipment.
1178 Section 9. Subsection (7) of section 403.067, Florida
1179 Statutes, is amended to read:
1180 403.067 Establishment and implementation of total maximum
1181 daily loads.—
1182 (7) DEVELOPMENT OF BASIN MANAGEMENT PLANS AND
1183 IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.—
1184 (a) *Basin management action plans.*—
1185 1. In developing and implementing the total maximum daily
1186 load for a water body, the department, or the department in
1187 conjunction with a water management district, may develop a
1188 basin management action plan that addresses some or all of the
1189 watersheds and basins tributary to the water body. Such plan

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1190 must integrate the appropriate management strategies available
1191 to the state through existing water quality protection programs
1192 to achieve the total maximum daily loads and may provide for
1193 phased implementation of these management strategies to promote
1194 timely, cost-effective actions as provided for in s. 403.151.
1195 The plan must establish a schedule implementing the management
1196 strategies, establish a basis for evaluating the plan's
1197 effectiveness, and identify feasible funding strategies for
1198 implementing the plan's management strategies. The management
1199 strategies may include regional treatment systems or other
1200 public works, where appropriate, and voluntary trading of water
1201 quality credits to achieve the needed pollutant load reductions.
1202 2. A basin management action plan must equitably allocate,
1203 pursuant to paragraph (6)(b), pollutant reductions to individual
1204 basins, as a whole to all basins, or to each identified point
1205 source or category of nonpoint sources, as appropriate. For
1206 nonpoint sources for which best management practices have been
1207 adopted, the initial requirement specified by the plan must be
1208 those practices developed pursuant to paragraph (c). When ~~Where~~
1209 appropriate, the plan may take into account the benefits of
1210 pollutant load reduction achieved by point or nonpoint sources
1211 that have implemented management strategies to reduce pollutant
1212 loads, including best management practices, before the
1213 development of the basin management action plan. The plan must
1214 also identify the mechanisms that will address potential future
1215 increases in pollutant loading.
1216 3. The basin management action planning process is intended
1217 to involve the broadest possible range of interested parties,
1218 with the objective of encouraging the greatest amount of

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1219 cooperation and consensus possible. In developing a basin
1220 management action plan, the department shall assure that key
1221 stakeholders, including, but not limited to, applicable local
1222 governments, water management districts, the Department of
1223 Agriculture and Consumer Services, other appropriate state
1224 agencies, local soil and water conservation districts,
1225 environmental groups, regulated interests, and affected
1226 pollution sources, are invited to participate in the process.
1227 The department shall hold at least one public meeting in the
1228 vicinity of the watershed or basin to discuss and receive
1229 comments during the planning process and shall otherwise
1230 encourage public participation to the greatest practicable
1231 extent. Notice of the public meeting must be published in a
1232 newspaper of general circulation in each county in which the
1233 watershed or basin lies at least ~~not less than~~ 5 days, but not
1234 ~~nor~~ more than 15 days, before the public meeting. A basin
1235 management action plan does not supplant or otherwise alter any
1236 assessment made under subsection (3) or subsection (4) or any
1237 calculation or initial allocation.
1238 4. Each new or revised basin management action plan shall
1239 include:
1240 a. The appropriate management strategies available through
1241 existing water quality protection programs to achieve total
1242 maximum daily loads, which may provide for phased implementation
1243 to promote timely, cost-effective actions as provided for in s.
1244 403.151;
1245 b. A description of best management practices adopted by
1246 rule;
1247 c. A list of projects in priority ranking with a planning-

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1248 level cost estimate and estimated date of completion for each
1249 listed project;
1250 d. The source and amount of financial assistance to be made
1251 available by the department, a water management district, or
1252 other entity for each listed project, if applicable; and
1253 e. A planning-level estimate of each listed project's
1254 expected load reduction, if applicable.
1255 5. The department shall adopt all or any part of a basin
1256 management action plan and any amendment to such plan by
1257 secretarial order pursuant to chapter 120 to implement ~~the~~
1258 ~~provisions of~~ this section.
1259 6. The basin management action plan must include milestones
1260 for implementation and water quality improvement, and an
1261 associated water quality monitoring component sufficient to
1262 evaluate whether reasonable progress in pollutant load
1263 reductions is being achieved over time. An assessment of
1264 progress toward these milestones shall be conducted every 5
1265 years, and revisions to the plan shall be made as appropriate.
1266 Revisions to the basin management action plan shall be made by
1267 the department in cooperation with basin stakeholders. Revisions
1268 to the management strategies required for nonpoint sources must
1269 follow the procedures set forth in subparagraph (c)4. Revised
1270 basin management action plans must be adopted pursuant to
1271 subparagraph 5.
1272 7. In accordance with procedures adopted by rule under
1273 paragraph (9)(c), basin management action plans, and other
1274 pollution control programs under local, state, or federal
1275 authority as provided in subsection (4), may allow point or
1276 nonpoint sources that will achieve greater pollutant reductions

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1277 than required by an adopted total maximum daily load or
1278 wasteload allocation to generate, register, and trade water
1279 quality credits for the excess reductions to enable other
1280 sources to achieve their allocation; however, the generation of
1281 water quality credits does not remove the obligation of a source
1282 or activity to meet applicable technology requirements or
1283 adopted best management practices. Such plans must allow trading
1284 between NPDES permittees, and trading that may or may not
1285 involve NPDES permittees, where the generation or use of the
1286 credits involve an entity or activity not subject to department
1287 water discharge permits whose owner voluntarily elects to obtain
1288 department authorization for the generation and sale of credits.
1289 8. ~~The provisions of~~ The department's rule relating to the
1290 equitable abatement of pollutants into surface waters do not
1291 apply to water bodies or water body segments for which a basin
1292 management plan that takes into account future new or expanded
1293 activities or discharges has been adopted under this section.
1294 9. In order to promote resilient utilities, if the
1295 department identifies domestic wastewater facilities or onsite
1296 sewage treatment and disposal systems as contributors of at
1297 least 20 percent of point source or nonpoint source nutrient
1298 pollution or if the department determines remediation is
1299 necessary to achieve the total maximum daily load, a basin
1300 management action plan for a nutrient total maximum daily load
1301 must include the following:
1302 a. A wastewater treatment plan that addresses domestic
1303 wastewater developed by each local government in cooperation
1304 with the department, the water management district, and the
1305 public and private domestic wastewater facilities within the

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1306 jurisdiction of the local government. The wastewater treatment
1307 plan must:
1308 (I) Provide for construction, expansion, or upgrades
1309 necessary to achieve the total maximum daily load requirements
1310 applicable to the domestic wastewater facility.
1311 (II) Include the permitted capacity in gallons per day for
1312 the domestic wastewater facility; the average nutrient
1313 concentration and the estimated average nutrient load of the
1314 domestic wastewater; a timeline of the dates by which the
1315 construction of any facility improvements will begin and be
1316 completed and the date by which operations of the improved
1317 facility will begin; the estimated cost of the improvements; and
1318 the identity of responsible parties.
1319
1320 The wastewater treatment plan must be adopted as part of the
1321 basin management action plan no later than July 1, 2025. A local
1322 government that does not have a domestic wastewater treatment
1323 facility in its jurisdiction is not required to develop a
1324 wastewater treatment plan unless there is a demonstrated need to
1325 establish a domestic wastewater treatment facility within its
1326 jurisdiction to improve water quality necessary to achieve a
1327 total maximum daily load.
1328 b. An onsite sewage treatment and disposal system
1329 remediation plan developed by each local government in
1330 cooperation with the department, the Department of Health, water
1331 management districts, and public and private domestic wastewater
1332 facilities.
1333 (I) The onsite sewage treatment and disposal system
1334 remediation plan must identify cost-effective and financially

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1335 feasible projects necessary to achieve the nutrient load
1336 reductions required for onsite sewage treatment and disposal
1337 systems. To identify cost-effective and financially feasible
1338 projects for remediation of onsite sewage treatment and disposal
1339 systems, the local government shall:
1340 (A) Include an inventory of onsite sewage treatment and
1341 disposal systems based on the best information available;
1342 (B) Identify onsite sewage treatment and disposal systems
1343 that would be eliminated through connection to existing or
1344 future central wastewater infrastructure, that would be replaced
1345 with or upgraded to advanced nutrient-removal systems, or that
1346 would remain on conventional onsite sewage treatment and
1347 disposal systems;
1348 (C) Estimate the costs of potential onsite sewage treatment
1349 and disposal systems connections, upgrades, or replacements; and
1350 (D) Identify deadlines and interim milestones for the
1351 planning, design, and construction of projects.
1352 (II) The department shall adopt the onsite sewage treatment
1353 and disposal system remediation plan as part of the basin
1354 management action plan no later than July 1, 2025, or as
1355 required for Outstanding Florida Springs under s. 373.807.
1356 10. When identifying wastewater projects in a basin
1357 management action plan, the department may not require the
1358 higher cost option if it achieves the same nutrient load
1359 reduction as a lower cost option.
1360 (b) *Total maximum daily load implementation.*—
1361 1. The department shall be the lead agency in coordinating
1362 the implementation of the total maximum daily loads through
1363 existing water quality protection programs. Application of a

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1364 total maximum daily load by a water management district must be
1365 consistent with this section and does not require the issuance
1366 of an order or a separate action pursuant to s. 120.536(1) or s.
1367 120.54 for the adoption of the calculation and allocation
1368 previously established by the department. Such programs may
1369 include, but are not limited to:
1370 a. Permitting and other existing regulatory programs,
1371 including water-quality-based effluent limitations;
1372 b. Nonregulatory and incentive-based programs, including
1373 best management practices, cost sharing, waste minimization,
1374 pollution prevention, agreements established pursuant to s.
1375 403.061(22) ~~s. 403.061(21)~~, and public education;
1376 c. Other water quality management and restoration
1377 activities, for example surface water improvement and management
1378 plans approved by water management districts or basin management
1379 action plans developed pursuant to this subsection;
1380 d. Trading of water quality credits or other equitable
1381 economically based agreements;
1382 e. Public works including capital facilities; or
1383 f. Land acquisition.
1384 2. For a basin management action plan adopted pursuant to
1385 paragraph (a), any management strategies and pollutant reduction
1386 requirements associated with a pollutant of concern for which a
1387 total maximum daily load has been developed, including effluent
1388 limits set forth for a discharger subject to NPDES permitting,
1389 if any, must be included in a timely manner in subsequent NPDES
1390 permits or permit modifications for that discharger. The
1391 department may not impose limits or conditions implementing an
1392 adopted total maximum daily load in an NPDES permit until the

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1393 permit expires, the discharge is modified, or the permit is
1394 reopened pursuant to an adopted basin management action plan.
1395 a. Absent a detailed allocation, total maximum daily loads
1396 must be implemented through NPDES permit conditions that provide
1397 for a compliance schedule. In such instances, a facility's NPDES
1398 permit must allow time for the issuance of an order adopting the
1399 basin management action plan. The time allowed for the issuance
1400 of an order adopting the plan may not exceed 5 years. Upon
1401 issuance of an order adopting the plan, the permit must be
1402 reopened or renewed, as necessary, and permit conditions
1403 consistent with the plan must be established. Notwithstanding
1404 the other provisions of this subparagraph, upon request by an
1405 NPDES permittee, the department as part of a permit issuance,
1406 renewal, or modification may establish individual allocations
1407 before the adoption of a basin management action plan.
1408 b. For holders of NPDES municipal separate storm sewer
1409 system permits and other stormwater sources, implementation of a
1410 total maximum daily load or basin management action plan must be
1411 achieved, to the maximum extent practicable, through the use of
1412 best management practices or other management measures.
1413 c. The basin management action plan does not relieve the
1414 discharger from any requirement to obtain, renew, or modify an
1415 NPDES permit or to abide by other requirements of the permit.
1416 d. Management strategies set forth in a basin management
1417 action plan to be implemented by a discharger subject to
1418 permitting by the department must be completed pursuant to the
1419 schedule set forth in the basin management action plan. This
1420 implementation schedule may extend beyond the 5-year term of an
1421 NPDES permit.

1422 e. Management strategies and pollution reduction
1423 requirements set forth in a basin management action plan for a
1424 specific pollutant of concern are not subject to challenge under
1425 chapter 120 at the time they are incorporated, in an identical
1426 form, into a subsequent NPDES permit or permit modification.
1427 f. For nonagricultural pollutant sources not subject to
1428 NPDES permitting but permitted pursuant to other state,
1429 regional, or local water quality programs, the pollutant
1430 reduction actions adopted in a basin management action plan must
1431 be implemented to the maximum extent practicable as part of
1432 those permitting programs.
1433 g. A nonpoint source discharger included in a basin
1434 management action plan must demonstrate compliance with the
1435 pollutant reductions established under subsection (6) by
1436 implementing the appropriate best management practices
1437 established pursuant to paragraph (c) or conducting water
1438 quality monitoring prescribed by the department or a water
1439 management district. A nonpoint source discharger may, in
1440 accordance with department rules, supplement the implementation
1441 of best management practices with water quality credit trades in
1442 order to demonstrate compliance with the pollutant reductions
1443 established under subsection (6).
1444 h. A nonpoint source discharger included in a basin
1445 management action plan may be subject to enforcement action by
1446 the department or a water management district based upon a
1447 failure to implement the responsibilities set forth in sub-
1448 subparagraph g.
1449 i. A landowner, discharger, or other responsible person who
1450 is implementing applicable management strategies specified in an

1451 adopted basin management action plan may not be required by
1452 permit, enforcement action, or otherwise to implement additional
1453 management strategies, including water quality credit trading,
1454 to reduce pollutant loads to attain the pollutant reductions
1455 established pursuant to subsection (6) and shall be deemed to be
1456 in compliance with this section. This subparagraph does not
1457 limit the authority of the department to amend a basin
1458 management action plan as specified in subparagraph (a)6.
1459 (c) *Best management practices.*—
1460 1. The department, in cooperation with the water management
1461 districts and other interested parties, as appropriate, may
1462 develop suitable interim measures, best management practices, or
1463 other measures necessary to achieve the level of pollution
1464 reduction established by the department for nonagricultural
1465 nonpoint pollutant sources in allocations developed pursuant to
1466 subsection (6) and this subsection. These practices and measures
1467 may be adopted by rule by the department and the water
1468 management districts and, where adopted by rule, shall be
1469 implemented by those parties responsible for nonagricultural
1470 nonpoint source pollution.
1471 2. The Department of Agriculture and Consumer Services may
1472 develop and adopt by rule pursuant to ss. 120.536(1) and 120.54
1473 suitable interim measures, best management practices, or other
1474 measures necessary to achieve the level of pollution reduction
1475 established by the department for agricultural pollutant sources
1476 in allocations developed pursuant to subsection (6) and this
1477 subsection or for programs implemented pursuant to paragraph
1478 (12)(b). These practices and measures may be implemented by
1479 those parties responsible for agricultural pollutant sources and

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1480 the department, the water management districts, and the
1481 Department of Agriculture and Consumer Services shall assist
1482 with implementation. In the process of developing and adopting
1483 rules for interim measures, best management practices, or other
1484 measures, the Department of Agriculture and Consumer Services
1485 shall consult with the department, the Department of Health, the
1486 water management districts, representatives from affected
1487 farming groups, and environmental group representatives. Such
1488 rules must also incorporate provisions for a notice of intent to
1489 implement the practices and a system to assure the
1490 implementation of the practices, including site inspection and
1491 recordkeeping requirements.
1492 3. Where interim measures, best management practices, or
1493 other measures are adopted by rule, the effectiveness of such
1494 practices in achieving the levels of pollution reduction
1495 established in allocations developed by the department pursuant
1496 to subsection (6) and this subsection or in programs implemented
1497 pursuant to paragraph (12)(b) must be verified at representative
1498 sites by the department. The department shall use best
1499 professional judgment in making the initial verification that
1500 the best management practices are reasonably expected to be
1501 effective and, where applicable, must notify the appropriate
1502 water management district or the Department of Agriculture and
1503 Consumer Services of its initial verification before the
1504 adoption of a rule proposed pursuant to this paragraph.
1505 Implementation, in accordance with rules adopted under this
1506 paragraph, of practices that have been initially verified to be
1507 effective, or verified to be effective by monitoring at
1508 representative sites, by the department, shall provide a

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1509 presumption of compliance with state water quality standards and
1510 release from ~~the provisions of~~ s. 376.307(5) for those
1511 pollutants addressed by the practices, and the department is not
1512 authorized to institute proceedings against the owner of the
1513 source of pollution to recover costs or damages associated with
1514 the contamination of surface water or groundwater caused by
1515 those pollutants. Research projects funded by the department, a
1516 water management district, or the Department of Agriculture and
1517 Consumer Services to develop or demonstrate interim measures or
1518 best management practices shall be granted a presumption of
1519 compliance with state water quality standards and a release from
1520 ~~the provisions of~~ s. 376.307(5). The presumption of compliance
1521 and release is limited to the research site and only for those
1522 pollutants addressed by the interim measures or best management
1523 practices. Eligibility for the presumption of compliance and
1524 release is limited to research projects on sites where the owner
1525 or operator of the research site and the department, a water
1526 management district, or the Department of Agriculture and
1527 Consumer Services have entered into a contract or other
1528 agreement that, at a minimum, specifies the research objectives,
1529 the cost-share responsibilities of the parties, and a schedule
1530 that details the beginning and ending dates of the project.
1531 4. Where water quality problems are demonstrated, despite
1532 the appropriate implementation, operation, and maintenance of
1533 best management practices and other measures required by rules
1534 adopted under this paragraph, the department, a water management
1535 district, or the Department of Agriculture and Consumer
1536 Services, in consultation with the department, shall institute a
1537 reevaluation of the best management practice or other measure.

1538 Should the reevaluation determine that the best management
1539 practice or other measure requires modification, the department,
1540 a water management district, or the Department of Agriculture
1541 and Consumer Services, as appropriate, shall revise the rule to
1542 require implementation of the modified practice within a
1543 reasonable time period as specified in the rule.
1544 5. The Department of Agriculture and Consumer Services
1545 shall collect fertilization and nutrient records from each
1546 agricultural producer enrolled in best management practices that
1547 address nutrients. These records must include rates of
1548 application in pounds per acre; application method; fertilizer
1549 type or source; acres covered; formulation of the applied
1550 fertilizer, including nitrogen and phosphorus content; location;
1551 grade; and dates applied. By each March 1, the Department of
1552 Agriculture and Consumer Services shall provide the previous
1553 year's records to the department.
1554 6. Agricultural records relating to processes or methods of
1555 production, costs of production, profits, or other financial
1556 information held by the Department of Agriculture and Consumer
1557 Services pursuant to subparagraphs 3. and 4. or pursuant to any
1558 rule adopted pursuant to subparagraph 2. are confidential and
1559 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
1560 Constitution. Upon request, records made confidential and exempt
1561 pursuant to this subparagraph shall be released to the
1562 department or any water management district provided that the
1563 confidentiality specified by this subparagraph for such records
1564 is maintained.
1565 7.~~6.~~ ~~The provisions of~~ Subparagraphs 1. and 2. do not
1566 preclude the department or water management district from

1567 requiring compliance with water quality standards or with
1568 current best management practice requirements set forth in any
1569 applicable regulatory program authorized by law for the purpose
1570 of protecting water quality. Additionally, subparagraphs 1. and
1571 2. are applicable only to the extent that they do not conflict
1572 with any rules adopted by the department that are necessary to
1573 maintain a federally delegated or approved program.
1574 (d) *Enforcement and verification of basin management action*
1575 *plans and management strategies.*—
1576 1. Basin management action plans are enforceable pursuant
1577 to this section and ss. 403.121, 403.141, and 403.161.
1578 Management strategies, including best management practices and
1579 water quality monitoring, are enforceable under this chapter.
1580 2. No later than January 1, 2017:
1581 a. The department, in consultation with the water
1582 management districts and the Department of Agriculture and
1583 Consumer Services, shall initiate rulemaking to adopt procedures
1584 to verify implementation of water quality monitoring required in
1585 lieu of implementation of best management practices or other
1586 measures pursuant to sub-subparagraph (b)2.g.;
1587 b. The department, in consultation with the water
1588 management districts and the Department of Agriculture and
1589 Consumer Services, shall initiate rulemaking to adopt procedures
1590 to verify implementation of nonagricultural interim measures,
1591 best management practices, or other measures adopted by rule
1592 pursuant to subparagraph (c)1.; and
1593 c. The Department of Agriculture and Consumer Services, in
1594 consultation with the water management districts and the
1595 department, shall initiate rulemaking to adopt procedures to

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1596 verify implementation of agricultural interim measures, best
1597 management practices, or other measures adopted by rule pursuant
1598 to subparagraph(c)2.
1599
1600 The rules required under this subparagraph shall include
1601 enforcement procedures applicable to the landowner, discharger,
1602 or other responsible person required to implement applicable
1603 management strategies, including best management practices or
1604 water quality monitoring as a result of noncompliance.
1605 3. At least every 2 years, the Department of Agriculture
1606 and Consumer Services shall perform onsite inspections of each
1607 agricultural producer that enrolls in a best management practice
1608 to ensure that such practice is being properly implemented.
1609 (e) *Data collection and research.*—
1610 1. The Department of Agriculture and Consumer Services, the
1611 University of Florida Institute of Food and Agricultural
1612 Sciences, and other state universities and Florida College
1613 System institutions with agricultural research programs may
1614 annually develop research plans and legislative budget requests
1615 to:
1616 a. Evaluate and suggest enhancements to the existing
1617 adopted agricultural best management practices to reduce
1618 nutrients;
1619 b. Develop new best management practices that, if proven
1620 effective, the Department of Agriculture and Consumer Services
1621 may adopt by rule pursuant to paragraph 403.067(7)(c); and
1622 c. Develop agricultural nutrient reduction projects that
1623 willing participants could implement on a site-specific,
1624 cooperative basis, in addition to best management practices. The

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1625 department may consider these projects for inclusion in a basin
1626 management action plan. These nutrient reduction projects must
1627 reduce the nutrient impacts from agricultural operations on
1628 water quality when evaluated with the projects and management
1629 strategies currently included in the basin management action
1630 plan.
1631 2. To be considered for funding, the University of Florida
1632 Institute of Food and Agricultural Sciences and other state
1633 universities and Florida College System institutions that have
1634 agricultural research programs must submit such plans to the
1635 department and the Department of Agriculture and Consumer
1636 Services by August 1 of each year.
1637 Section 10. Section 403.0673, Florida Statutes, is created
1638 to read:
1639 403.0673 Wastewater grant program.—A wastewater grant
1640 program is established within the Department of Environmental
1641 Protection.
1642 (1) Subject to the appropriation of funds by the
1643 Legislature, the department may provide grants for the following
1644 projects within a basin management action plan, an alternative
1645 restoration plan adopted by final order, or a rural area of
1646 opportunity under s. 288.0656 which will individually or
1647 collectively reduce excess nutrient pollution:
1648 (a) Projects to retrofit onsite sewage treatment and
1649 disposal systems to upgrade them to nutrient-reducing onsite
1650 sewage treatment and disposal systems.
1651 (b) Projects to construct, upgrade, or expand facilities to
1652 provide advanced waste treatment, as defined in s. 403.086(4).
1653 (c) Projects to connect onsite sewage treatment and

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1654 disposal systems to central sewer facilities.
1655 (2) In allocating such funds, priority must be given to
1656 projects that subsidize the connection of onsite sewage
1657 treatment and disposal systems to a wastewater treatment plant.
1658 In determining priorities, the department shall consider the
1659 estimated reduction in nutrient load per project; project
1660 readiness; cost-effectiveness of the project; overall
1661 environmental benefit of a project; the location of a project;
1662 the availability of local matching funds; and projected water
1663 savings or quantity improvements associated with a project.
1664 (3) Each grant for a project described in subsection (1)
1665 must require a minimum of a 50 percent local match of funds.
1666 However, the department may, at its discretion, waive, in whole
1667 or in part, this consideration of the local contribution for
1668 proposed projects within an area designated as a rural area of
1669 opportunity under s. 288.0656.
1670 (4) The department shall coordinate with each water
1671 management district, as necessary, to identify grant recipients
1672 in each district.
1673 (5) Beginning January 1, 2021, and each January 1
1674 thereafter, the department shall submit a report regarding the
1675 projects funded pursuant to this section to the Governor, the
1676 President of the Senate, and the Speaker of the House of
1677 Representatives.
1678 Section 11. Section 403.0855, Florida Statutes, is created
1679 to read:
1680 403.0855 Biosolids management.—The Legislature finds that
1681 it is in the best interest of this state to regulate biosolids
1682 management in order to minimize the migration of nutrients that

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1683 impair waterbodies. The Legislature further finds that the
1684 expedited implementation of the recommendations of the Biosolids
1685 Technical Advisory Committee, including permitting according to
1686 site-specific application conditions, an increased inspection
1687 rate, groundwater and surface water monitoring protocols, and
1688 nutrient management research, will improve biosolids management
1689 and assist in protecting this state's water resources and water
1690 quality. The department shall adopt rules for biosolids
1691 management. Rules adopted by the department pursuant to this
1692 section before the 2021 regular legislative session are not
1693 subject to s. 120.541(3).
1694 Section 12. Present subsections (7) through (10) of section
1695 403.086, Florida Statutes, are redesignated as subsections (8)
1696 through (11), respectively, a new subsection (7) is added to
1697 that section, and paragraph (c) of subsection (1) and subsection
1698 (2) of that section are amended, to read:
1699 403.086 Sewage disposal facilities; advanced and secondary
1700 waste treatment.—
1701 (1)
1702 (c) Notwithstanding any other provisions of this chapter or
1703 chapter 373, facilities for sanitary sewage disposal may not
1704 dispose of any wastes into Old Tampa Bay, Tampa Bay,
1705 Hillsborough Bay, Boca Ciega Bay, St. Joseph Sound, Clearwater
1706 Bay, Sarasota Bay, Little Sarasota Bay, Roberts Bay, Lemon Bay,
1707 or Charlotte Harbor Bay, Indian River Lagoon beginning July 1,
1708 2025, or into any river, stream, channel, canal, bay, bayou,
1709 sound, or other water tributary thereto, without providing
1710 advanced waste treatment, as defined in subsection (4), approved
1711 by the department. This paragraph shall not apply to facilities

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1712 which were permitted by February 1, 1987, and which discharge
1713 secondary treated effluent, followed by water hyacinth
1714 treatment, to tributaries of tributaries of the named waters; or
1715 to facilities permitted to discharge to the nontidally
1716 influenced portions of the Peace River.
1717 (2) Any facilities for sanitary sewage disposal shall
1718 provide for secondary waste treatment, a power outage
1719 contingency plan that mitigates the impacts of power outages on
1720 the utility's collection system and pump stations, and~~, in~~
1721 ~~addition thereto,~~ advanced waste treatment as deemed necessary
1722 and ordered by the Department of Environmental Protection.
1723 Failure to conform is ~~shall be~~ punishable by a civil penalty of
1724 $500 for each 24-hour day or fraction thereof that such failure
1725 is allowed to continue thereafter.
1726 (7) All facilities for sanitary sewage under subsection (2)
1727 which control a collection or transmission system of pipes and
1728 pumps to collect and transmit wastewater from domestic or
1729 industrial sources to the facility shall take steps to prevent
1730 sanitary sewer overflows or underground pipe leaks and ensure
1731 that collected waste water reaches the facility for appropriate
1732 treatment. Facilities must use inflow and infiltration studies
1733 and leakage surveys to develop pipe assessment, repair, and
1734 replacement action plans that comply with department rule to
1735 limit, reduce, and eliminate leaks, seepages, or inputs into
1736 wastewater treatment systems' underground pipes. The pipe
1737 assessment, repair, and replacement action plans must be
1738 reported to the department. The facility report must include
1739 information regarding the annual expenditures dedicated to the
1740 inflow and infiltration studies and the required replacement

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1741 action plans, as well as expenditures that are dedicated to pipe
1742 assessment, repair, and replacement. The department shall adopt
1743 rules regarding the implementation of inflow and infiltration
1744 studies and leakage surveys. Substantial compliance with this
1745 subsection is evidence in mitigation for the purposes of
1746 assessing penalties pursuant to ss. 403.121 and 403.141.
1747 Section 13. Present subsections (4) through (10) of section
1748 403.087, Florida Statutes, are redesignated as subsections (5)
1749 through (11), respectively, and a new subsection (4) is added to
1750 that section, to read:
1751 403.087 Permits; general issuance; denial; revocation;
1752 prohibition; penalty.—
1753 (4) The department shall issue an operation permit for a
1754 domestic wastewater treatment facility other than a facility
1755 regulated under the National Pollutant Discharge Elimination
1756 System Program under s. 403.0885 for a term of up to 10 years if
1757 the facility is meeting the stated goals in its action plan
1758 adopted pursuant to s. 403.086(7).
1759 Section 14. Present subsections (3) and (4) of section
1760 403.088, Florida Statutes, are redesignated as subsections (4)
1761 and (5), respectively, a new subsection (3) is added to that
1762 section, and paragraph (c) of subsection (2) of that section is
1763 amended, to read:
1764 403.088 Water pollution operation permits; conditions.—
1765 (2)
1766 (c) A permit shall:
1767 1. Specify the manner, nature, volume, and frequency of the
1768 discharge permitted;
1769 2. Require proper operation and maintenance of any

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1770 pollution abatement facility by qualified personnel in
1771 accordance with standards established by the department;
1772 3. Require a deliberate, proactive approach to
1773 investigating or surveying a significant percentage of the
1774 wastewater collection system throughout the duration of the
1775 permit to determine pipe integrity, which must be accomplished
1776 in an economically feasible manner. The permittee shall submit
1777 an annual report to the department which details facility
1778 revenues and expenditures in a manner prescribed by department
1779 rule. The report must detail any deviation from annual
1780 expenditures related to inflow and infiltration studies; model
1781 plans for pipe assessment, repair, and replacement; and pipe
1782 assessment, repair, and replacement required under s.
1783 403.086(7). Substantial compliance with this subsection is
1784 evidence in mitigation for the purposes of assessing penalties
1785 pursuant to ss. 403.121 and 403.141;
1786 4. Contain such additional conditions, requirements, and
1787 restrictions as the department deems necessary to preserve and
1788 protect the quality of the receiving waters;
1789 5.~~4.~~ Be valid for the period of time specified therein; and
1790 6.~~5.~~ Constitute the state National Pollutant Discharge
1791 Elimination System permit when issued pursuant to the authority
1792 in s. 403.0885.
1793 (3) No later than March 1 of each year, the department
1794 shall submit a report to the Governor, the President of the
1795 Senate, and the Speaker of the House of Representatives which
1796 identifies all wastewater utilities that experienced a sanitary
1797 sewer overflow in the preceding calendar year. The report must
1798 identify the utility name, operator, number of overflows, and

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1799 total quantity of discharge released. The department shall
1800 include with this report the annual report specified under s.
1801 403.088(2)(c)3. for each utility that experienced an overflow.
1802 Section 15. Subsection (6) of section 403.0891, Florida
1803 Statutes, is amended to read:
1804 403.0891 State, regional, and local stormwater management
1805 plans and programs.—The department, the water management
1806 districts, and local governments shall have the responsibility
1807 for the development of mutually compatible stormwater management
1808 programs.
1809 (6) The department and the Department of Economic
1810 Opportunity, in cooperation with local governments in the
1811 coastal zone, shall develop a model stormwater management
1812 program that could be adopted by local governments. The model
1813 program must contain model ordinances that target nutrient
1814 reduction practices and use green infrastructure. The model
1815 program shall contain dedicated funding options, including a
1816 stormwater utility fee system based upon an equitable unit cost
1817 approach. Funding options shall be designed to generate capital
1818 to retrofit existing stormwater management systems, build new
1819 treatment systems, operate facilities, and maintain and service
1820 debt.
1821 Section 16. Paragraph (b) of subsection (3) of section
1822 403.121, Florida Statutes, is amended to read:
1823 403.121 Enforcement; procedure; remedies.—The department
1824 shall have the following judicial and administrative remedies
1825 available to it for violations of this chapter, as specified in
1826 s. 403.161(1).
1827 (3) Except for violations involving hazardous wastes,

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1828 asbestos, or underground injection, administrative penalties
1829 must be calculated according to the following schedule:
1830 (b) For failure to obtain a required wastewater permit,
1831 other than a permit required for surface water discharge, the
1832 department shall assess a penalty of $1,000. For a domestic or
1833 industrial wastewater violation not involving a surface water or
1834 groundwater quality violation, the department shall assess a
1835 penalty of $2,000 for an unpermitted or unauthorized discharge
1836 or effluent-limitation exceedance or failure to survey an
1837 adequate portion of the wastewater collection system and take
1838 steps to reduce sanitary sewer overflows, pipe leaks, and inflow
1839 and infiltration. For an unpermitted or unauthorized discharge
1840 or effluent-limitation exceedance that resulted in a surface
1841 water or groundwater quality violation, the department shall
1842 assess a penalty of $5,000.
1843 Section 17. Subsection (3) is added to section 403.885,
1844 Florida Statutes, to read:
1845 403.885 Water Projects Grant Program.—
1846 (3) The department shall give funding priority to grant
1847 proposals submitted by a domestic wastewater utility in
1848 accordance with s. 403.1835 which implement the requirements of
1849 ss. 403.086(7) or 403.088(2)(c).
1850 Section 18. The Legislature determines and declares that
1851 this act fulfills an important state interest.
1852 Section 19. Effective July 1, 2021, subsection (5) of
1853 section 153.54, Florida Statutes, is amended to read:
1854 153.54 Preliminary report by county commissioners with
1855 respect to creation of proposed district.—Upon receipt of a
1856 petition duly signed by not less than 25 qualified electors who

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1857 are also freeholders residing within an area proposed to be
1858 incorporated into a water and sewer district pursuant to this
1859 law and describing in general terms the proposed boundaries of
1860 such proposed district, the board of county commissioners if it
1861 shall deem it necessary and advisable to create and establish
1862 such proposed district for the purpose of constructing,
1863 establishing or acquiring a water system or a sewer system or
1864 both in and for such district (herein called "improvements"),
1865 shall first cause a preliminary report to be made which such
1866 report together with any other relevant or pertinent matters,
1867 shall include at least the following:
1868 (5) For the construction of a new proposed central sewerage
1869 system or the extension of an existing sewerage system that was
1870 not previously approved, the report shall include a study that
1871 includes the available information from the Department of
1872 Environmental Protection ~~Health~~ on the history of onsite sewage
1873 treatment and disposal systems currently in use in the area and
1874 a comparison of the projected costs to the owner of a typical
1875 lot or parcel of connecting to and using the proposed sewerage
1876 system versus installing, operating, and properly maintaining an
1877 onsite sewage treatment and disposal system that is approved by
1878 the Department of Environmental Protection ~~Health~~ and that
1879 provides for the comparable level of environmental and health
1880 protection as the proposed central sewerage system;
1881 consideration of the local authority's obligations or reasonably
1882 anticipated obligations for water body cleanup and protection
1883 under state or federal programs, including requirements for
1884 water bodies listed under s. 303(d) of the Clean Water Act, Pub.
1885 L. No. 92-500, 33 U.S.C. ss. 1251 et seq.; and other factors

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1886 deemed relevant by the local authority.
1887
1888 Such report shall be filed in the office of the clerk of the
1889 circuit court and shall be open for the inspection of any
1890 taxpayer, property owner, qualified elector or any other
1891 interested or affected person.
1892 Section 20. Effective July 1, 2021, paragraph (c) of
1893 subsection (2) of section 153.73, Florida Statutes, is amended
1894 to read:
1895 153.73 Assessable improvements; levy and payment of special
1896 assessments.—Any district may provide for the construction or
1897 reconstruction of assessable improvements as defined in s.
1898 153.52, and for the levying of special assessments upon
1899 benefited property for the payment thereof, under ~~the provisions~~
1900 ~~of~~ this section.
1901 (2)
1902 (c) For the construction of a new proposed central sewerage
1903 system or the extension of an existing sewerage system that was
1904 not previously approved, the report shall include a study that
1905 includes the available information from the Department of
1906 Environmental Protection ~~Health~~ on the history of onsite sewage
1907 treatment and disposal systems currently in use in the area and
1908 a comparison of the projected costs to the owner of a typical
1909 lot or parcel of connecting to and using the proposed sewerage
1910 system versus installing, operating, and properly maintaining an
1911 onsite sewage treatment and disposal system that is approved by
1912 the Department of Environmental Protection ~~Health~~ and that
1913 provides for the comparable level of environmental and health
1914 protection as the proposed central sewerage system;

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1915 consideration of the local authority's obligations or reasonably
1916 anticipated obligations for water body cleanup and protection
1917 under state or federal programs, including requirements for
1918 water bodies listed under s. 303(d) of the Clean Water Act, Pub.
1919 L. No. 92-500, 33 U.S.C. ss. 1251 et seq.; and other factors
1920 deemed relevant by the local authority.
1921 Section 21. Effective July 1, 2021, subsection (2) of
1922 section 163.3180, Florida Statutes, is amended to read:
1923 163.3180 Concurrency.—
1924 (2) Consistent with public health and safety, sanitary
1925 sewer, solid waste, drainage, adequate water supplies, and
1926 potable water facilities shall be in place and available to
1927 serve new development no later than the issuance by the local
1928 government of a certificate of occupancy or its functional
1929 equivalent. Prior to approval of a building permit or its
1930 functional equivalent, the local government shall consult with
1931 the applicable water supplier to determine whether adequate
1932 water supplies to serve the new development will be available no
1933 later than the anticipated date of issuance by the local
1934 government of a certificate of occupancy or its functional
1935 equivalent. A local government may meet the concurrency
1936 requirement for sanitary sewer through the use of onsite sewage
1937 treatment and disposal systems approved by the Department of
1938 Environmental Protection ~~Health~~ to serve new development.
1939 Section 22. Effective July 1, 2021, subsection (3) of
1940 section 180.03, Florida Statutes, is amended to read:
1941 180.03 Resolution or ordinance proposing construction or
1942 extension of utility; objections to same.—
1943 (3) For the construction of a new proposed central sewerage

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1944 system or the extension of an existing central sewerage system
1945 that was not previously approved, the report shall include a
1946 study that includes the available information from the
1947 Department of Environmental Protection ~~Health~~ on the history of
1948 onsite sewage treatment and disposal systems currently in use in
1949 the area and a comparison of the projected costs to the owner of
1950 a typical lot or parcel of connecting to and using the proposed
1951 central sewerage system versus installing, operating, and
1952 properly maintaining an onsite sewage treatment and disposal
1953 system that is approved by the Department of Environmental
1954 Protection ~~Health~~ and that provides for the comparable level of
1955 environmental and health protection as the proposed central
1956 sewerage system; consideration of the local authority's
1957 obligations or reasonably anticipated obligations for water body
1958 cleanup and protection under state or federal programs,
1959 including requirements for water bodies listed under s. 303(d)
1960 of the Clean Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251
1961 et seq.; and other factors deemed relevant by the local
1962 authority. The results of such a study shall be included in the
1963 resolution or ordinance required under subsection (1).
1964 Section 23. Subsections (2), (3), and (6) of section
1965 311.105, Florida Statutes, are amended to read:
1966 311.105 Florida Seaport Environmental Management Committee;
1967 permitting; mitigation.—
1968 (2) Each application for a permit authorized pursuant to s.
1969 403.061(38) ~~s. 403.061(37)~~ must include:
1970 (a) A description of maintenance dredging activities to be
1971 conducted and proposed methods of dredged-material management.
1972 (b) A characterization of the materials to be dredged and

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1973 the materials within dredged-material management sites.
1974 (c) A description of dredged-material management sites and
1975 plans.
1976 (d) A description of measures to be undertaken, including
1977 environmental compliance monitoring, to minimize adverse
1978 environmental effects of maintenance dredging and dredged-
1979 material management.
1980 (e) Such scheduling information as is required to
1981 facilitate state supplementary funding of federal maintenance
1982 dredging and dredged-material management programs consistent
1983 with beach restoration criteria of the Department of
1984 Environmental Protection.
1985 (3) Each application for a permit authorized pursuant to s.
1986 403.061(39) ~~s. 403.061(38)~~ must include ~~the provisions of~~
1987 paragraphs (2)(b)-(e) and the following:
1988 (a) A description of dredging and dredged-material
1989 management and other related activities associated with port
1990 development, including the expansion of navigation channels,
1991 dredged-material management sites, port harbors, turning basins,
1992 harbor berths, and associated facilities.
1993 (b) A discussion of environmental mitigation as is proposed
1994 for dredging and dredged-material management for port
1995 development, including the expansion of navigation channels,
1996 dredged-material management sites, port harbors, turning basins,
1997 harbor berths, and associated facilities.
1998 (6) Dredged-material management activities authorized
1999 pursuant to s. 403.061(38) ~~s. 403.061(37)~~ or s. 403.061(39) ~~(38)~~
2000 shall be incorporated into port master plans developed pursuant
2001 to s. 163.3178(2)(k).

2002 Section 24. Paragraph (d) of subsection (1) of section
2003 327.46, Florida Statutes, is amended to read:
2004 327.46 Boating-restricted areas.—
2005 (1) Boating-restricted areas, including, but not limited
2006 to, restrictions of vessel speeds and vessel traffic, may be
2007 established on the waters of this state for any purpose
2008 necessary to protect the safety of the public if such
2009 restrictions are necessary based on boating accidents,
2010 visibility, hazardous currents or water levels, vessel traffic
2011 congestion, or other navigational hazards or to protect
2012 seagrasses on privately owned submerged lands.
2013 (d) Owners of private submerged lands that are adjacent to
2014 Outstanding Florida Waters, as defined in s. 403.061(28) ~~s.~~
2015 ~~403.061(27)~~, or an aquatic preserve established under ss.
2016 258.39-258.399 may request that the commission establish
2017 boating-restricted areas solely to protect any seagrass and
2018 contiguous seagrass habitat within their private property
2019 boundaries from seagrass scarring due to propeller dredging.
2020 Owners making a request pursuant to this paragraph must
2021 demonstrate to the commission clear ownership of the submerged
2022 lands. The commission shall adopt rules to implement this
2023 paragraph, including, but not limited to, establishing an
2024 application process and criteria for meeting the requirements of
2025 this paragraph. Each approved boating-restricted area shall be
2026 established by commission rule. For marking boating-restricted
2027 zones established pursuant to this paragraph, owners of
2028 privately submerged lands shall apply to the commission for a
2029 uniform waterway marker permit in accordance with ss. 327.40 and
2030 327.41, and shall be responsible for marking the boating-

2031 restricted zone in accordance with the terms of the permit.
2032 Section 25. Paragraph (d) of subsection (3) of section
2033 373.250, Florida Statutes, is amended to read:
2034 373.250 Reuse of reclaimed water.—
2035 (3)
2036 (d) The South Florida Water Management District shall
2037 require the use of reclaimed water made available by the
2038 elimination of wastewater ocean outfall discharges as provided
2039 for in s. 403.086(10) ~~s. 403.086(9)~~ in lieu of surface water or
2040 groundwater when the use of reclaimed water is available; is
2041 environmentally, economically, and technically feasible; and is
2042 of such quality and reliability as is necessary to the user.
2043 Such reclaimed water may also be required in lieu of other
2044 alternative sources. In determining whether to require such
2045 reclaimed water in lieu of other alternative sources, the water
2046 management district shall consider existing infrastructure
2047 investments in place or obligated to be constructed by an
2048 executed contract or similar binding agreement as of July 1,
2049 2011, for the development of other alternative sources.
2050 Section 26. Subsection (9) of section 373.414, Florida
2051 Statutes, is amended to read:
2052 373.414 Additional criteria for activities in surface
2053 waters and wetlands.—
2054 (9) The department and the governing boards, on or before
2055 July 1, 1994, shall adopt rules to incorporate ~~the provisions of~~
2056 this section, relying primarily on the existing rules of the
2057 department and the water management districts, into the rules
2058 governing the management and storage of surface waters. Such
2059 rules shall seek to achieve a statewide, coordinated and

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2060 consistent permitting approach to activities regulated under
2061 this part. Variations in permitting criteria in the rules of
2062 individual water management districts or the department shall
2063 only be provided to address differing physical or natural
2064 characteristics. Such rules adopted pursuant to this subsection
2065 shall include the special criteria adopted pursuant to s.
2066 403.061(30) ~~s. 403.061(29)~~ and may include the special criteria
2067 adopted pursuant to s. 403.061(35) ~~s. 403.061(34)~~. Such rules
2068 shall include a provision requiring that a notice of intent to
2069 deny or a permit denial based upon this section shall contain an
2070 explanation of the reasons for such denial and an explanation,
2071 in general terms, of what changes, if any, are necessary to
2072 address such reasons for denial. Such rules may establish
2073 exemptions and general permits, if such exemptions and general
2074 permits do not allow significant adverse impacts to occur
2075 individually or cumulatively. Such rules may require submission
2076 of proof of financial responsibility which may include the
2077 posting of a bond or other form of surety prior to the
2078 commencement of construction to provide reasonable assurance
2079 that any activity permitted pursuant to this section, including
2080 any mitigation for such permitted activity, will be completed in
2081 accordance with the terms and conditions of the permit once the
2082 construction is commenced. Until rules adopted pursuant to this
2083 subsection become effective, existing rules adopted under this
2084 part and rules adopted pursuant to the authority of ss. 403.91-
2085 403.929 shall be deemed authorized under this part and shall
2086 remain in full force and effect. Neither the department nor the
2087 governing boards are limited or prohibited from amending any
2088 such rules.

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2089 Section 27. Paragraph (b) of subsection (4) of section
2090 373.705, Florida Statutes, is amended to read:
2091 373.705 Water resource development; water supply
2092 development.—
2093 (4)
2094 (b) Water supply development projects that meet the
2095 criteria in paragraph (a) and that meet one or more of the
2096 following additional criteria shall be given first consideration
2097 for state or water management district funding assistance:
2098 1. The project brings about replacement of existing sources
2099 in order to help implement a minimum flow or minimum water
2100 level;
2101 2. The project implements reuse that assists in the
2102 elimination of domestic wastewater ocean outfalls as provided in
2103 s. 403.086(10) ~~s. 403.086(9)~~; or
2104 3. The project reduces or eliminates the adverse effects of
2105 competition between legal users and the natural system.
2106 Section 28. Paragraph (f) of subsection (8) of section
2107 373.707, Florida Statutes, is amended to read:
2108 373.707 Alternative water supply development.—
2109 (8)
2110 (f) The governing boards shall determine those projects
2111 that will be selected for financial assistance. The governing
2112 boards may establish factors to determine project funding;
2113 however, significant weight shall be given to the following
2114 factors:
2115 1. Whether the project provides substantial environmental
2116 benefits by preventing or limiting adverse water resource
2117 impacts.

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2118 2. Whether the project reduces competition for water
2119 supplies.
2120 3. Whether the project brings about replacement of
2121 traditional sources in order to help implement a minimum flow or
2122 level or a reservation.
2123 4. Whether the project will be implemented by a consumptive
2124 use permittee that has achieved the targets contained in a goal-
2125 based water conservation program approved pursuant to s.
2126 373.227.
2127 5. The quantity of water supplied by the project as
2128 compared to its cost.
2129 6. Projects in which the construction and delivery to end
2130 users of reuse water is a major component.
2131 7. Whether the project will be implemented by a
2132 multijurisdictional water supply entity or regional water supply
2133 authority.
2134 8. Whether the project implements reuse that assists in the
2135 elimination of domestic wastewater ocean outfalls as provided in
2136 s. 403.086(10) ~~s. 403.086(9)~~.
2137 9. Whether the county or municipality, or the multiple
2138 counties or municipalities, in which the project is located has
2139 implemented a high-water recharge protection tax assessment
2140 program as provided in s. 193.625.
2141 Section 29. Subsection (4) of section 373.709, Florida
2142 Statutes, is amended to read:
2143 373.709 Regional water supply planning.—
2144 (4) The South Florida Water Management District shall
2145 include in its regional water supply plan water resource and
2146 water supply development projects that promote the elimination

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2147 of wastewater ocean outfalls as provided in s. 403.086(10) ~~s.~~
2148 ~~403.086(9)~~.
2149 Section 30. Paragraph (k) of subsection (1) of section
2150 376.307, Florida Statutes, is amended to read:
2151 376.307 Water Quality Assurance Trust Fund.—
2152 (1) The Water Quality Assurance Trust Fund is intended to
2153 serve as a broad-based fund for use in responding to incidents
2154 of contamination that pose a serious danger to the quality of
2155 groundwater and surface water resources or otherwise pose a
2156 serious danger to the public health, safety, or welfare. Moneys
2157 in this fund may be used:
2158 (k) For funding activities described in s. 403.086(10) ~~s.~~
2159 ~~403.086(9)~~ which are authorized for implementation under the
2160 Leah Schad Memorial Ocean Outfall Program.
2161 Section 31. Paragraph (i) of subsection (2), paragraph (b)
2162 of subsection (4), paragraph (j) of subsection (7), and
2163 paragraph (a) of subsection (9) of section 380.0552, Florida
2164 Statutes, are amended to read:
2165 380.0552 Florida Keys Area; protection and designation as
2166 area of critical state concern.—
2167 (2) LEGISLATIVE INTENT.—It is the intent of the Legislature
2168 to:
2169 (i) Protect and improve the nearshore water quality of the
2170 Florida Keys through federal, state, and local funding of water
2171 quality improvement projects, including the construction and
2172 operation of wastewater management facilities that meet the
2173 requirements of ss. 381.0065(4)(l) and 403.086(11) ~~403.086(10)~~,
2174 as applicable.
2175 (4) REMOVAL OF DESIGNATION.—

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2176 (b) Beginning November 30, 2010, the state land planning
2177 agency shall annually submit a written report to the
2178 Administration Commission describing the progress of the Florida
2179 Keys Area toward completing the work program tasks specified in
2180 commission rules. The land planning agency shall recommend
2181 removing the Florida Keys Area from being designated as an area
2182 of critical state concern to the commission if it determines
2183 that:
2184 1. All of the work program tasks have been completed,
2185 including construction of, operation of, and connection to
2186 central wastewater management facilities pursuant to s.
2187 403.086(11) ~~s. 403.086(10)~~ and upgrade of onsite sewage
2188 treatment and disposal systems pursuant to s. 381.0065(4)(l);
2189 2. All local comprehensive plans and land development
2190 regulations and the administration of such plans and regulations
2191 are adequate to protect the Florida Keys Area, fulfill the
2192 legislative intent specified in subsection (2), and are
2193 consistent with and further the principles guiding development;
2194 and
2195 3. A local government has adopted a resolution at a public
2196 hearing recommending the removal of the designation.
2197 (7) PRINCIPLES FOR GUIDING DEVELOPMENT.—State, regional,
2198 and local agencies and units of government in the Florida Keys
2199 Area shall coordinate their plans and conduct their programs and
2200 regulatory activities consistent with the principles for guiding
2201 development as specified in chapter 27F-8, Florida
2202 Administrative Code, as amended effective August 23, 1984, which
2203 is adopted and incorporated herein by reference. For the
2204 purposes of reviewing the consistency of the adopted plan, or

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2205 any amendments to that plan, with the principles for guiding
2206 development, and any amendments to the principles, the
2207 principles shall be construed as a whole and specific provisions
2208 may not be construed or applied in isolation from the other
2209 provisions. However, the principles for guiding development are
2210 repealed 18 months from July 1, 1986. After repeal, any plan
2211 amendments must be consistent with the following principles:
2212 (j) Ensuring the improvement of nearshore water quality by
2213 requiring the construction and operation of wastewater
2214 management facilities that meet the requirements of ss.
2215 381.0065(4)(l) and s. 403.086(11) ~~403.086(10)~~, as applicable,
2216 and by directing growth to areas served by central wastewater
2217 treatment facilities through permit allocation systems.
2218 (9) MODIFICATION TO PLANS AND REGULATIONS.—
2219 (a) Any land development regulation or element of a local
2220 comprehensive plan in the Florida Keys Area may be enacted,
2221 amended, or rescinded by a local government, but the enactment,
2222 amendment, or rescission becomes effective only upon approval by
2223 the state land planning agency. The state land planning agency
2224 shall review the proposed change to determine if it is in
2225 compliance with the principles for guiding development specified
2226 in chapter 27F-8, Florida Administrative Code, as amended
2227 effective August 23, 1984, and must approve or reject the
2228 requested changes within 60 days after receipt. Amendments to
2229 local comprehensive plans in the Florida Keys Area must also be
2230 reviewed for compliance with the following:
2231 1. Construction schedules and detailed capital financing
2232 plans for wastewater management improvements in the annually
2233 adopted capital improvements element, and standards for the

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2234 construction of wastewater treatment and disposal facilities or
2235 collection systems that meet or exceed the criteria in s.
2236 403.086(11) ~~s. 403.086(10)~~ for wastewater treatment and disposal
2237 facilities or s. 381.0065(4)(l) for onsite sewage treatment and
2238 disposal systems.
2239 2. Goals, objectives, and policies to protect public safety
2240 and welfare in the event of a natural disaster by maintaining a
2241 hurricane evacuation clearance time for permanent residents of
2242 no more than 24 hours. The hurricane evacuation clearance time
2243 shall be determined by a hurricane evacuation study conducted in
2244 accordance with a professionally accepted methodology and
2245 approved by the state land planning agency.
2246 Section 32. Effective July 1, 2021, subsections (7) and
2247 (18) of section 381.006, Florida Statutes, are amended to read:
2248 381.006 Environmental health.—The department shall conduct
2249 an environmental health program as part of fulfilling the
2250 state's public health mission. The purpose of this program is to
2251 detect and prevent disease caused by natural and manmade factors
2252 in the environment. The environmental health program shall
2253 include, but not be limited to:
2254 ~~(7) An onsite sewage treatment and disposal function.~~
2255 (17) ~~(18)~~ A food service inspection function for domestic
2256 violence centers that are certified by the Department of
2257 Children and Families and monitored by the Florida Coalition
2258 Against Domestic Violence under part XII of chapter 39 and group
2259 care homes as described in subsection (15) ~~(16)~~, which shall be
2260 conducted annually and be limited to the requirements in
2261 department rule applicable to community-based residential
2262 facilities with five or fewer residents.

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2264 The department may adopt rules to carry out the provisions of
2265 this section.
2266 Section 33. Effective July 1, 2021, subsection (1) of
2267 section 381.0061, Florida Statutes, is amended to read:
2268 381.0061 Administrative fines.—
2269 (1) In addition to any administrative action authorized by
2270 chapter 120 or by other law, the department may impose a fine,
2271 which may ~~shall~~ not exceed $500 for each violation, for a
2272 violation of s. 381.006(15) ~~s. 381.006(16)~~, s. 381.0065, s.
2273 381.0066, s. 381.0072, or part III of chapter 489, for a
2274 violation of any rule adopted under this chapter, or for a
2275 violation of ~~any of the provisions of~~ chapter 386. Notice of
2276 intent to impose such fine shall be given by the department to
2277 the alleged violator. Each day that a violation continues may
2278 constitute a separate violation.
2279 Section 34. Effective July 1, 2021, subsection (1) of
2280 section 381.0064, Florida Statutes, is amended to read:
2281 381.0064 Continuing education courses for persons
2282 installing or servicing septic tanks.—
2283 (1) The Department of Environmental Protection ~~Health~~ shall
2284 establish a program for continuing education which meets the
2285 purposes of ss. 381.0101 and 489.554 regarding the public health
2286 and environmental effects of onsite sewage treatment and
2287 disposal systems and any other matters the department determines
2288 desirable for the safe installation and use of onsite sewage
2289 treatment and disposal systems. The department may charge a fee
2290 to cover the cost of such program.
2291 Section 35. Effective July 1, 2021, paragraph (d) of

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2292 subsection (7), subsection (8), and paragraphs (b), (c), and (d)
2293 of subsection (9) of section 381.00651, Florida Statutes, are
2294 amended to read:
2295 381.00651 Periodic evaluation and assessment of onsite
2296 sewage treatment and disposal systems.—
2297 (7) The following procedures shall be used for conducting
2298 evaluations:
2299 (d) *Assessment procedure.*—All evaluation procedures used by
2300 a qualified contractor shall be documented in the environmental
2301 health database of the Department of Environmental Protection
2302 ~~Health~~. The qualified contractor shall provide a copy of a
2303 written, signed evaluation report to the property owner upon
2304 completion of the evaluation and to the county health department
2305 within 30 days after the evaluation. The report must ~~shall~~
2306 contain the name and license number of the company providing the
2307 report. A copy of the evaluation report shall be retained by the
2308 local county health department for a minimum of 5 years and
2309 until a subsequent inspection report is filed. The front cover
2310 of the report must identify any system failure and include a
2311 clear and conspicuous notice to the owner that the owner has a
2312 right to have any remediation of the failure performed by a
2313 qualified contractor other than the contractor performing the
2314 evaluation. The report must further identify any crack, leak,
2315 improper fit, or other defect in the tank, manhole, or lid, and
2316 any other damaged or missing component; any sewage or effluent
2317 visible on the ground or discharging to a ditch or other surface
2318 water body; any downspout, stormwater, or other source of water
2319 directed onto or toward the system; and any other maintenance
2320 need or condition of the system at the time of the evaluation

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2321 which, in the opinion of the qualified contractor, would
2322 possibly interfere with or restrict any future repair or
2323 modification to the existing system. The report shall conclude
2324 with an overall assessment of the fundamental operational
2325 condition of the system.
2326 (8) The county health department, in coordination with the
2327 department, shall administer any evaluation program on behalf of
2328 a county, or a municipality within the county, that has adopted
2329 an evaluation program pursuant to this section. In order to
2330 administer the evaluation program, the county or municipality,
2331 in consultation with the county health department, may develop a
2332 reasonable fee schedule to be used solely to pay for the costs
2333 of administering the evaluation program. Such a fee schedule
2334 shall be identified in the ordinance that adopts the evaluation
2335 program. When arriving at a reasonable fee schedule, the
2336 estimated annual revenues to be derived from fees may not exceed
2337 reasonable estimated annual costs of the program. Fees shall be
2338 assessed to the system owner during an inspection and separately
2339 identified on the invoice of the qualified contractor. Fees
2340 shall be remitted by the qualified contractor to the county
2341 health department. The county health department's administrative
2342 responsibilities include the following:
2343 (a) Providing a notice to the system owner at least 60 days
2344 before the system is due for an evaluation. The notice may
2345 include information on the proper maintenance of onsite sewage
2346 treatment and disposal systems.
2347 (b) In consultation with the department ~~of Health~~,
2348 providing uniform disciplinary procedures and penalties for
2349 qualified contractors who do not comply with the requirements of

2350 the adopted ordinance, including, but not limited to, failure to
2351 provide the evaluation report as required in this subsection to
2352 the system owner and the county health department. Only the
2353 county health department may assess penalties against system
2354 owners for failure to comply with the adopted ordinance,
2355 consistent with existing requirements of law.
2356 (9)
2357 (b) Upon receipt of the notice under paragraph (a), the
2358 department ~~of Environmental Protection~~ shall, within existing
2359 resources, notify the county or municipality of the potential
2360 use of, and access to, program funds under the Clean Water State
2361 Revolving Fund or s. 319 of the Clean Water Act, provide
2362 guidance in the application process to receive such moneys, and
2363 provide advice and technical assistance to the county or
2364 municipality on how to establish a low-interest revolving loan
2365 program or how to model a revolving loan program after the low-
2366 interest loan program of the Clean Water State Revolving Fund.
2367 This paragraph does not obligate the department ~~of Environmental~~
2368 ~~Protection~~ to provide any county or municipality with money to
2369 fund such programs.
2370 (c) The department ~~of Health~~ may not adopt any rule that
2371 alters ~~the provisions of~~ this section.
2372 (d) The department ~~of Health~~ must allow county health
2373 departments and qualified contractors access to the
2374 environmental health database to track relevant information and
2375 assimilate data from assessment and evaluation reports of the
2376 overall condition of onsite sewage treatment and disposal
2377 systems. The environmental health database must be used by
2378 contractors to report each service and evaluation event and by a

2379 county health department to notify owners of onsite sewage
2380 treatment and disposal systems when evaluations are due. Data
2381 and information must be recorded and updated as service and
2382 evaluations are conducted and reported.
2383 Section 36. Section 403.08601, Florida Statutes, is amended
2384 to read:
2385 403.08601 Leah Schad Memorial Ocean Outfall Program.—The
2386 Legislature declares that as funds become available the state
2387 may assist the local governments and agencies responsible for
2388 implementing the Leah Schad Memorial Ocean Outfall Program
2389 pursuant to s. 403.086(10) ~~s. 403.086(9)~~. Funds received from
2390 other sources provided for in law, the General Appropriations
2391 Act, from gifts designated for implementation of the plan from
2392 individuals, corporations, or other entities, or federal funds
2393 appropriated by Congress for implementation of the plan, may be
2394 deposited into an account of the Water Quality Assurance Trust
2395 Fund.
2396 Section 37. Section 403.0871, Florida Statutes, is amended
2397 to read:
2398 403.0871 Florida Permit Fee Trust Fund.—There is
2399 established within the department a nonlapsing trust fund to be
2400 known as the "Florida Permit Fee Trust Fund." All funds received
2401 from applicants for permits pursuant to ss. 161.041, 161.053,
2402 161.0535, 403.087(7) ~~403.087(6)~~, and 403.861(7)(a) shall be
2403 deposited in the Florida Permit Fee Trust Fund and shall be used
2404 by the department with the advice and consent of the Legislature
2405 to supplement appropriations and other funds received by the
2406 department for the administration of its responsibilities under
2407 this chapter and chapter 161. In no case shall funds from the

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2408 Florida Permit Fee Trust Fund be used for salary increases
2409 without the approval of the Legislature.
2410 Section 38. Paragraph (a) of subsection (11) of section
2411 403.0872, Florida Statutes, is amended to read:
2412 403.0872 Operation permits for major sources of air
2413 pollution; annual operation license fee.—Provided that program
2414 approval pursuant to 42 U.S.C. s. 7661a has been received from
2415 the United States Environmental Protection Agency, beginning
2416 January 2, 1995, each major source of air pollution, including
2417 electrical power plants certified under s. 403.511, must obtain
2418 from the department an operation permit for a major source of
2419 air pollution under this section. This operation permit is the
2420 only department operation permit for a major source of air
2421 pollution required for such source; provided, at the applicant's
2422 request, the department shall issue a separate acid rain permit
2423 for a major source of air pollution that is an affected source
2424 within the meaning of 42 U.S.C. s. 7651a(1). Operation permits
2425 for major sources of air pollution, except general permits
2426 issued pursuant to s. 403.814, must be issued in accordance with
2427 the procedures contained in this section and in accordance with
2428 chapter 120; however, to the extent that chapter 120 is
2429 inconsistent with ~~the provisions of~~ this section, the procedures
2430 contained in this section prevail.
2431 (11) Each major source of air pollution permitted to
2432 operate in this state must pay between January 15 and April 1 of
2433 each year, upon written notice from the department, an annual
2434 operation license fee in an amount determined by department
2435 rule. The annual operation license fee shall be terminated
2436 immediately in the event the United States Environmental

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2437 Protection Agency imposes annual fees solely to implement and
2438 administer the major source air-operation permit program in
2439 Florida under 40 C.F.R. s. 70.10(d).
2440 (a) The annual fee must be assessed based upon the source's
2441 previous year's emissions and must be calculated by multiplying
2442 the applicable annual operation license fee factor times the
2443 tons of each regulated air pollutant actually emitted, as
2444 calculated in accordance with the department's emissions
2445 computation and reporting rules. The annual fee shall only apply
2446 to those regulated pollutants, except carbon monoxide and
2447 greenhouse gases, for which an allowable numeric emission
2448 limiting standard is specified in the source's most recent
2449 construction or operation permit; provided, however, that:
2450 1. The license fee factor is $25 or another amount
2451 determined by department rule which ensures that the revenue
2452 provided by each year's operation license fees is sufficient to
2453 cover all reasonable direct and indirect costs of the major
2454 stationary source air-operation permit program established by
2455 this section. The license fee factor may be increased beyond $25
2456 only if the secretary of the department affirmatively finds that
2457 a shortage of revenue for support of the major stationary source
2458 air-operation permit program will occur in the absence of a fee
2459 factor adjustment. The annual license fee factor may never
2460 exceed $35.
2461 2. The amount of each regulated air pollutant in excess of
2462 4,000 tons per year emitted by any source, or group of sources
2463 belonging to the same Major Group as described in the Standard
2464 Industrial Classification Manual, 1987, may not be included in
2465 the calculation of the fee. Any source, or group of sources,

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2466 which does not emit any regulated air pollutant in excess of
2467 4,000 tons per year, is allowed a one-time credit not to exceed
2468 25 percent of the first annual licensing fee for the prorated
2469 portion of existing air-operation permit application fees
2470 remaining upon commencement of the annual licensing fees.
2471 3. If the department has not received the fee by March 1 of
2472 the calendar year, the permittee must be sent a written warning
2473 of the consequences for failing to pay the fee by April 1. If
2474 the fee is not postmarked by April 1 of the calendar year, the
2475 department shall impose, in addition to the fee, a penalty of 50
2476 percent of the amount of the fee, plus interest on such amount
2477 computed in accordance with s. 220.807. The department may not
2478 impose such penalty or interest on any amount underpaid,
2479 provided that the permittee has timely remitted payment of at
2480 least 90 percent of the amount determined to be due and remits
2481 full payment within 60 days after receipt of notice of the
2482 amount underpaid. The department may waive the collection of
2483 underpayment and may ~~shall~~ not be required to refund overpayment
2484 of the fee, if the amount due is less than 1 percent of the fee,
2485 up to $50. The department may revoke any major air pollution
2486 source operation permit if it finds that the permitholder has
2487 failed to timely pay any required annual operation license fee,
2488 penalty, or interest.
2489 4. Notwithstanding the computational provisions of this
2490 subsection, the annual operation license fee for any source
2491 subject to this section may ~~shall~~ not be less than $250, except
2492 that the annual operation license fee for sources permitted
2493 solely through general permits issued under s. 403.814 may ~~shall~~
2494 not exceed $50 per year.

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2495 5. Notwithstanding s. 403.087(7)(a)5.a., which authorizes
2496 ~~the provisions of s. 403.087(6)(a)5.a., authorizing~~ air
2497 pollution construction permit fees, the department may not
2498 require such fees for changes or additions to a major source of
2499 air pollution permitted pursuant to this section, unless the
2500 activity triggers permitting requirements under Title I, Part C
2501 or Part D, of the federal Clean Air Act, 42 U.S.C. ss. 7470-
2502 7514a. Costs to issue and administer such permits shall be
2503 considered direct and indirect costs of the major stationary
2504 source air-operation permit program under s. 403.0873. The
2505 department shall, however, require fees pursuant to s.
2506 403.087(7)(a)5.a. ~~the provisions of s. 403.087(6)(a)5.a.~~ for the
2507 construction of a new major source of air pollution that will be
2508 subject to the permitting requirements of this section once
2509 constructed and for activities triggering permitting
2510 requirements under Title I, Part C or Part D, of the federal
2511 Clean Air Act, 42 U.S.C. ss. 7470-7514a.
2512 Section 39. Subsection (7) of section 403.1835, Florida
2513 Statutes, is amended to read:
2514 403.1835 Water pollution control financial assistance.—
2515 (7) Eligible projects must be given priority according to
2516 the extent each project is intended to remove, mitigate, or
2517 prevent adverse effects on surface or ground water quality and
2518 public health. The relative costs of achieving environmental and
2519 public health benefits must be taken into consideration during
2520 the department's assignment of project priorities. The
2521 department shall adopt a priority system by rule. In developing
2522 the priority system, the department shall give priority to
2523 projects that:

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2524 (a) Eliminate public health hazards;
2525 (b) Enable compliance with laws requiring the elimination
2526 of discharges to specific water bodies, including the
2527 requirements of s. 403.086(10) ~~s. 403.086(9)~~ regarding domestic
2528 wastewater ocean outfalls;
2529 (c) Assist in the implementation of total maximum daily
2530 loads adopted under s. 403.067;
2531 (d) Enable compliance with other pollution control
2532 requirements, including, but not limited to, toxics control,
2533 wastewater residuals management, and reduction of nutrients and
2534 bacteria;
2535 (e) Assist in the implementation of surface water
2536 improvement and management plans and pollutant load reduction
2537 goals developed under state water policy;
2538 (f) Promote reclaimed water reuse;
2539 (g) Eliminate failing onsite sewage treatment and disposal
2540 systems or those that are causing environmental damage; or
2541 (h) Reduce pollutants to and otherwise promote the
2542 restoration of Florida's surface and ground waters.
2543 Section 40. Paragraph (d) of subsection (3) of section
2544 403.707, Florida Statutes, is amended to read:
2545 403.707 Permits.—
2546 (3)
2547 (d) The department may adopt rules to administer this
2548 subsection. However, the department is not required to submit
2549 such rules to the Environmental Regulation Commission for
2550 approval. Notwithstanding the limitations of s. 403.087(7)(a) ~~s.~~
2551 ~~403.087(6)(a)~~, permit fee caps for solid waste management
2552 facilities shall be prorated to reflect the extended permit term

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2553 authorized by this subsection.
2554 Section 41. Subsections (8) and (21) of section 403.861,
2555 Florida Statutes, are amended to read:
2556 403.861 Department; powers and duties.—The department shall
2557 have the power and the duty to carry out the provisions and
2558 purposes of this act and, for this purpose, to:
2559 (8) Initiate rulemaking to increase each drinking water
2560 permit application fee authorized under s. 403.087(7) ~~s.~~
2561 ~~403.087(6)~~ and this part and adopted by rule to ensure that such
2562 fees are increased to reflect, at a minimum, any upward
2563 adjustment in the Consumer Price Index compiled by the United
2564 States Department of Labor, or similar inflation indicator,
2565 since the original fee was established or most recently revised.
2566 (a) The department shall establish by rule the inflation
2567 index to be used for this purpose. The department shall review
2568 the drinking water permit application fees authorized under s.
2569 403.087(7) ~~s. 403.087(6)~~ and this part at least once every 5
2570 years and shall adjust the fees upward, as necessary, within the
2571 established fee caps to reflect changes in the Consumer Price
2572 Index or similar inflation indicator. In the event of deflation,
2573 the department shall consult with the Executive Office of the
2574 Governor and the Legislature to determine whether downward fee
2575 adjustments are appropriate based on the current budget and
2576 appropriation considerations. The department shall also review
2577 the drinking water operation license fees established pursuant
2578 to paragraph (7)(b) at least once every 5 years to adopt, as
2579 necessary, the same inflationary adjustments provided for in
2580 this subsection.
2581 (b) The minimum fee amount shall be the minimum fee

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2582 prescribed in this section, and such fee amount shall remain in
2583 effect until the effective date of fees adopted by rule by the
2584 department.
2585 (21)(a) Upon issuance of a construction permit to construct
2586 a new public water system drinking water treatment facility to
2587 provide potable water supply using a surface water that, at the
2588 time of the permit application, is not being used as a potable
2589 water supply, and the classification of which does not include
2590 potable water supply as a designated use, the department shall
2591 add treated potable water supply as a designated use of the
2592 surface water segment in accordance with s. 403.061(30)(b) ~~s.~~
2593 ~~403.061(29)(b)~~.
2594 (b) For existing public water system drinking water
2595 treatment facilities that use a surface water as a treated
2596 potable water supply, which surface water classification does
2597 not include potable water supply as a designated use, the
2598 department shall add treated potable water supply as a
2599 designated use of the surface water segment in accordance with
2600 s. 403.061(30)(b) ~~s. 403.061(29)(b)~~.
2601 Section 42. Effective July 1, 2021, subsection (1) of
2602 section 489.551, Florida Statutes, is amended to read:
2603 489.551 Definitions.—As used in this part:
2604 (1) "Department" means the Department of Environmental
2605 Protection ~~Health~~.
2606 Section 43. Paragraph (b) of subsection (10) of section
2607 590.02, Florida Statutes, is amended to read:
2608 590.02 Florida Forest Service; powers, authority, and
2609 duties; liability; building structures; Withlacoochee Training
2610 Center.—

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2611 (10)
2612 (b) The Florida Forest Service may delegate to a county,
2613 municipality, or special district its authority:
2614 1. As delegated by the Department of Environmental
2615 Protection pursuant to ss. 403.061(29) ~~ss. 403.061(28)~~ and
2616 403.081, to manage and enforce regulations pertaining to the
2617 burning of yard trash in accordance with s. 590.125(6).
2618 2. To manage the open burning of land clearing debris in
2619 accordance with s. 590.125.
2620 Section 44. The Division of Law Revision is directed to
2621 replace the phrase "adoption of the rules identified in
2622 paragraph (e)" as it is used in the amendment made by this act
2623 to s. 381.0065, Florida Statutes, with the date such rules are
2624 adopted, as provided by the Department of Environmental
2625 Protection pursuant to s. 381.0065(4)(e), Florida Statutes, as
2626 amended by this act.
2627 Section 45. Except as otherwise expressly provided in this
2628 act this act shall take effect July 1, 2020.

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